

**Request for Proposals (RFP)**

**Rental Car Services**

**Austin Straubel International Airport**

**Project # 1374**



**Response Deadline**

**November 10, 2009  
2:00 p.m. Local Time**

**To:**

**Brown County Purchasing Department**

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**NOTICE FOR SUBMISSION OF PROPOSALS**  
**AUSTIN STRAUBEL INTERNATIONAL AIRPORT**  
**AUTOMOBILE RENTAL AND SERVICE AREA CONCESSIONS**

**NOTICE IS HEREBY GIVEN** by the County of Brown, Wisconsin, hereinafter called "County", owner and operator of Austin Straubel International Airport, hereinafter called the "Airport", that proposals for the operation of four (4) non-exclusive automobile Rental Concessions and related Service Area use at Austin Straubel International Airport, Green Bay, Wisconsin, will be received at the Brown County Purchasing Department, 305 E. Walnut St. Green Bay, Wisconsin, 54301, no later than **2:00 p.m. on Tuesday, November 10, 2009**, at which time the proposals will be opened.

The County will hold a mandatory attendance pre-proposal conference on **Wednesday, October 7, 2009** in the Airport Administrative Conference Room, Austin Straubel International Airport Terminal Building, 2<sup>nd</sup> floor, 2077 Airport Drive, Green Bay, WI. Rental Car Concessionaires submitting Proposals **must** attend the conference. The conference will commence at **1:30 p.m.** at which time interested parties may discuss the particulars and requirements of the proposal documents. Proposals submitted by Concessionaires not attending the conference will not be accepted.

The term of the Automobile Rental Concession Agreements to be awarded shall be for a period of five (5) years, with said term to commence on January 1, 2010. The term of new Rental Car Service Area Agreements shall be for a period of twenty-five (25) years, with said term to commence on March 1, 2010.

The minimum acceptable proposal for the first (1st) year of the Concession Agreement shall provide for compensation to the Airport based upon an amount equal to ten percent (10%) of the projected total annual gross receipts guaranteed, or a minimum annual guarantee, whichever is

greater. For each subsequent year, the guaranteed minimum compensation to the Airport shall not be less than the guaranteed amount proposed for the previous year. The percentages of gross receipts shall remain fixed at ten percent (10%) throughout the entire term of the Concession Agreement.

This notice does not commit the Airport to award a Concession or Service Area Agreement, or to pay any cost incurred in the preparation of the proposals. The Airport specifically reserves the right to accept or reject any and all proposals submitted. Successful proposers shall be required to utilize the designated rental car business areas being provided at Austin Straubel International Airport which include service counters, Ready Car parking stalls, Reserve Lot stalls, and Service Area space, and shall pay the applicable rates for such space as more fully described in the proposal package.

#### Off-Airport Automobile Rental Concessionaires

The Airport has a program established which requires off-airport automobile rental concessionaires to enter into an agreement which provides for 10% of gross receipts to the Airport.

## PROPOSER INSTRUCTIONS

**WHEN:** Proposals must be received by **2:00 p.m., Tuesday, November 10, 2009.**

**All Proposals are due to Brown County Purchasing no later than 2:00 p.m. local time Tuesday November 10, 2009.** Submit in a sealed envelope marked "Project 1374 Rental Cars". No Proposal may be faxed or e-mailed. No Proposal may be withdrawn or modified for ninety (90) days.

Proposals must be stamped in by the above due date and time per the electronic time stamp in the Purchasing Department. Proposals not stamped by the above due date and time will be rejected. Those wishing to submit Proposals are encouraged to verify the time on the receiving stamp as this is the official time used for accepting all Proposals. Time discrepancies between wall clocks, watches, cell phones, etc. will not be honored. The official time stamp is the only time that will be used.

**WHERE:** Proposals must be delivered to:

Delivery Address for Hand Delivery, UPS, DHL, Fed X, etc.:  
Brown County Purchasing  
305 E. Walnut St. 5<sup>th</sup> Floor  
Green Bay, WI 54301

Delivery Address for USPS:  
Brown County Purchasing  
PO Box 23600  
Green Bay, WI 54305-3600

**FORMS:** To be considered, proposals must include the following:

- . Proposal Form (Exhibit A);
- . Qualifications and Experience Form (Exhibit B);
- . Financial Information Form (Exhibit C);
- . Cashier's Check;
- . Balance Sheet;
- . Income Statement;
- . Service Area Development Form (Exhibit D); and
- . Addendum Acknowledgement (Exhibit H).

## INFORMATION FOR PROPOSERS

### General

Austin Straubel International Airport is seeking proposals from qualified entities for the operation of four (4) non-exclusive automobile Rental Concession and Service Area Agreements in the designated rental car business and service areas at the Airport.

General information about Austin Straubel International Airport, including statistical information, is found in Exhibits "E" and "F".

### Evaluation of Proposals

Proposer verification prior to award: Proposer's financial solvency may be verified through financial background checks via Dun & Bradstreet or other means prior to contract award. Brown County reserves the right to reject proposals based on information obtained through these background checks if it's deemed to be in the best interest of the County.

Taxes: Brown County and its departments are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes.

A selection Committee appointed by the Airport Director will evaluate each proposal submitted according to the criteria listed in Exhibit "G". The Airport reserves the right to require an interview with each or any proposer to assist in the evaluation. Results of the evaluations and selection of four (4) proposals may be presented to the Brown County Planning, Development and Transportation Committee.

### Rental of Business Areas

Successful proposers shall be required to utilize the designated rental car business areas being provided at Austin Straubel International Airport which include counters, offices, Ready Car

parking stalls, Reserve Lot stalls, and Service Area space, and shall pay the applicable rates for such space. The rental rates for counter/office space is **\$26.13** per square foot per year for 2010. For the years 2011, 2012, 2013, and 2014 the service counter/office space rental rates will be adjusted to the same rental rate as then being charged for the airline ticket counters.

Presently, the counter/office space utilization is as follows:

<u>Terminal Building</u>		<u>Unimproved Space</u>	<u>Non-Terminal Building</u>	<u>Service Area (Under Lease)</u>
National	370 sq. ft.			61,752 sq. ft.
Avis	370 sq. ft.		148.95 sq. ft.	65,365 sq. ft.
Hertz	370 sq. ft.	50.75 sq. ft.		60,000 sq. ft.
Enterprise	370 sq. ft.			60,000 sq. ft.

Current concessionaires, if successful proposers, will retain current counter and parking areas. A new concessionaire will occupy the space vacated by an unsuccessful current concessionaire. If more than one new successful proposer, the vacated spaces will be allocated based on total five year proposal, the highest having first choice, then following in descending order by the other successful offerors. Ready lot parking spaces will be allocated to the four (4) successful concessionaires based on a percentage of the total five (5) year proposed Minimum Annual Guarantee.

Rental rates for the use of parking areas shall be **Three Dollars (\$3.00) per month for each surface Reserve Lot parking space and Ten Dollars (\$10.00) per month for each surface Ready Lot parking space.** Each Concessionaire will be required to rent as a minimum 28 Ready Lot parking spaces for each month of the Concession Agreement.

In addition, space in the service area is available for the construction of facilities the concessionaire deems necessary for the maintenance and servicing of its vehicles. The construction of any proposed facility(s) shall be done at concessionaire's expense. The land rental rates for this area are:

2010 - \$0.1685	2016 - \$0.2012	2022 - \$0.2402	2028 - \$0.2869
2011 - \$0.1735	2017 - \$0.2072	2023 - \$0.2474	2029 - \$0.2955
2012 - \$0.1788	2018 - \$0.2134	2024 - \$0.2548	2030 - \$0.3043
2013 - \$0.1841	2019 - \$0.2198	2025 - \$0.2625	2031 - \$0.3135
2014 - \$0.1896	2020 - \$0.2264	2026 - \$0.2703	2032 - \$0.3229
2015 - \$0.1953	2021 - \$0.2332	2027 - \$0.2784	2033 - \$0.3325
2034 - \$0.3425			

Rates for the period extending beyond 2034 shall be negotiated at the appropriate time.

Division of the Service Area between the Concessionaires will be based upon the proposed use; however, if a negotiated agreement cannot be reached, selection will be based on the Concessionaire's minimum annual guarantees.

#### GENERAL TERMS AND CONDITIONS

##### Term

The term of the nonexclusive Concession Agreements to be awarded shall be for a period of five (5) years, commencing on **January 1, 2010**, and ending on **December 31, 2014**. The term of new Rental Car Service Area Agreements shall be for a period of twenty-five (25) years, with said term to commence on **March 1, 2010**. *If the Airport builds a parking garage within the term of this lease, the Airport reserves the right with due notice to lessee to cancel leases at the time the parking garage would open and re-quote the concession space commensurate with facilities available in the new parking structure.*

##### Proposal Security

Each proposal shall be accompanied by a certified or cashier's check payable without condition to Austin Straubel International Airport in the amount of Two Thousand Dollars (\$2,000.00). This



check shall be a guarantee that if the proposal is accepted, a Concession and Service Area Agreement will be entered into by the successful proposer within fourteen (14) days after Notice of Award is given by Brown County. The checks of the successful proposers will be returned upon receipt of a fully executed Concession and Service Area Agreement. Checks of unsuccessful proposers will be returned within ten (10) days after the successful proposers have executed the required agreements and have otherwise fulfilled the requirements as set forth herein. A proposer's certified or cashier's check will be forfeited as liquidated damages and the proposal will be deemed rejected if the proposer and Brown County fail to execute a formal Concession or Service Area Agreement within the allotted time frame.

#### Proposer's Responsibility

Any person, firm or corporation desiring to submit a proposal for an automobile rental concession shall examine the terms of this Request for Proposal, the plans of the designated rental car business areas included in the proposal package documents, and shall attend the pre-proposal conference on **October 7, 2009**. Failure on the part of any proposer to make such examination or to investigate thoroughly the conditions of the proposal shall not be grounds for a declaration that the applicant did not understand the proposal package.

#### Evidence of Ability to Perform

Proposers must present evidence that they are fully competent to perform under the conditions of the Concession and Service Agreements. Proposers must have the necessary facilities, experience, organization and financial capacity to fulfill the conditions of the agreements and specifications. To provide the evaluators with information on their ability to perform, proposers must submit the information identified on page 3 (PROPOSER INSTRUCTIONS - FORMS) of this proposal package. The evaluators reserve the right to disqualify any proposer who, in the evaluator's judgment, does not have adequate qualifications.

### Rejection or Acceptance of Proposals

The requirements of the proposal package are for the benefit and protection of Brown County and not for the benefit or protection of the proposers; therefore, the right is reserved by the evaluators to waive any irregularities in the completion of the forms and papers enclosed in this Request for Proposal; to accept any or all proposals; to re-advertise for proposals which, in the judgment of the evaluators, will provide the best responsible service and highest compensation. Any proposal package submitted which is incomplete, conditional, obscure, or which contains irregularities of any kind, may be cause for rejection of the proposal. In the event of a default of any of the successful proposers or his/her refusal to enter into a Concession or Service Agreement with the Airport, the evaluators reserve the right to accept the proposal of the next qualified proposer.

### Unacceptable Proposals

At the sole discretion of the evaluators, proposals may not be accepted from or agreement awarded to any person, firm or corporation that is in arrears or is in default to Brown County upon any debt or agreement, or that is a defaulter of any obligation to Brown County, or has failed to faithfully perform any previous agreement with Brown County.

### Award of Agreement

Concessionaire will be required to keep the space it occupies and its automobiles in an orderly attractive condition at all times, to furnish prompt, courteous service, and to have available sufficient employees to properly serve the public. Concessionaire shall be required to maintain appropriate business licenses and provide proof of same upon demand by the Airport Director. The evaluators reserve the rights to investigate thoroughly the financial status, experience and record of each proposer. The final award will be based upon the information submitted and the Airport will enter into nonexclusive Concession and Service Area Agreements with up to four (4) successful proposers who will, in the evaluator's sole discretion, provide the best responsible service to the traveling public at the highest compensation to the Airport.

### Time of Award

Within **Fourteen (14)** days after receipt of the proposals, the Airport intends to award up to four (4) nonexclusive Concession and Service Area Agreements to those proposers who in the judgment of the Airport will provide the best responsible service to the public and the highest compensation to the Airport for the privileges and rights to be granted.

### General Terms and Conditions to be Part of Agreement

The general terms and conditions for an automobile rental concession at Austin Straubel International Airport are contained in the sample Concession Agreement attached hereto as Exhibit "K". The general terms and conditions for a rental car service area agreement are contained in the sample Service Area Agreement attached hereto as Exhibit "L". All necessary information derived from the proposers statements and the proposal forms shall be made part of the Concession and Service Area Agreement that is entered into for the concessions described herein.

### Performance Bond/Letter of Credit

At the time of the Concession Agreement's execution, Concessionaire shall deliver to the Airport Director a surety bond or letter of credit acceptable to the County guaranteeing payment of a sum equal to 25% of the minimum annual guarantee during each year of the term of the Concession Agreement.

### Explanations - Written or Oral

Should a proposer find a discrepancy in, or omission from, the general terms and conditions included in the proposal documents or instructions to proposers, or should there be any doubt as to their meaning, proposer shall at once notify the Airport Director, who will clarify any discrepancies and may send written instructions to all prospective proposers.

### Brands

Each proposer must identify on Proposal Form Exhibit A, attached hereto, each brand or trade name under which it proposes to operate at the Airport. A successful Proposer may not operate its concession at the Airport under more than a total of two brand or trade names. Any brand or trade names designated in a Proposer's proposal must be 100% owned or controlled by the Proposer, or be licensed to Proposer for its use. Successful Proposers shall not operate at the Airport under any brand name or trade name that was not designated in its proposal as required under this subsection.

### Bid Withdrawal

Proposals may only be withdrawn by requesting such withdrawal in writing at any time prior to **2:00 p.m. on Tuesday, November 10, 2009.** After such date and time, proposals shall be binding without modification or amendment. Any proposals received after such time will be returned to the proposer unopened. Withdrawal of a previous proposal will not preclude the submission of a substitute proposal prior to the hour and date set for the acceptance of proposals.

### Nondiscrimination - Affirmative Action

Successful proposers shall be required to comply with the following:

1. Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of the Civil Rights Act of 1964, (42 U.S.C. 2000 d-1 et seq) and
2. Title 14, Code of Federal Regulations, Part 152, Subpart E, Nondiscrimination in Airport Aid Programs.

### Pre-Proposal Conference

The Airport will hold a pre-proposal conference on **Wednesday, October 7, 2009**, in the Airport Administrative Conference Room at Austin Straubel International Airport, 2nd floor Terminal Building, 2077 Airport Drive, Green Bay, Wisconsin. The conference will commence at **1:30 p.m.** at which time interested parties may discuss the particulars and requirements of the proposal documents. Attendance at the pre-proposal conference is **mandatory** to qualify proposer for consideration of their proposal.

EXHIBIT "A"

PROPOSAL FORM

AUSTIN STRAUBEL INTERNATIONAL AIRPORT

PROPOSAL FOR AUTOMOBILE RENTAL AND SERVICE AREA CONCESSIONS

Submitted By:  
(Please type or print)

Company Name: \_\_\_\_\_

Local Manager Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

The undersigned proposer hereby submits to Austin Straubel International Airport, hereinafter referred to as the Airport, this proposal for the right to operate automobile Rental and Service Area Concessions at Austin Straubel International Airport based upon all the terms, covenants and conditions as set forth herein.

The undersigned proposer further agrees to operate an automobile rental concession as set forth in the nonexclusive Concession Agreement and proposes to pay annually to the Airport for the privilege of operating said automobile rental concession ten percent (10%) of gross receipts as defined in the nonexclusive agreement or the following minimum annual guarantee, whichever is the greater, for each year during the term of the Agreement (not to be less than \$100,000 per year Minimum Annual Guaranteed Amount)

MINIMUM ANNUAL GUARANTEE

First Year \_\_\_\_\_ Dollars  
(2010) (Amount in words)

Second Year \_\_\_\_\_ Dollars  
(2011) (Amount in words)

Third Year \_\_\_\_\_ Dollars  
(2012) (Amount in words)

Fourth Year \_\_\_\_\_ Dollars  
(2013) (Amount in words)

Fifth Year \_\_\_\_\_ Dollars  
(2014) (Amount in words)

If awarded a Car Rental Concession Lease, Proposer will operate under the following brands or trade names:

1. \_\_\_\_\_
2. \_\_\_\_\_

The proposer further warrants and agrees that:

1. The undersigned has carefully read and fully understands the Concession and Service Area Agreements and has the capability to carry out all of the concessionaire's responsibilities set forth therein.
2. The undersigned, any partner, or officer who will be in control of rental company operations under the Agreements has not been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of operating a rental car concession business under lease to Brown County.
3. By submission of this proposal, the proposer acknowledges that the evaluators have the right to make any inquiry or investigation it deems appropriate to substantiate information contained in the proposal documents, and authorizes the release to the evaluators of information sought.

4. Proprietary and competitive information received as part of this proposal package or requested by the evaluators, unless otherwise specified, will be held in confidence and will not be subject to public inspection.

If partnership, a general partner must sign; if a corporation, an authorized corporate officer must sign with a corporate resolution authorizing the officer's signature attached hereto.

Date: \_\_\_\_\_

PROPOSER: \_\_\_\_\_

(Affix seal if applicable)



EXHIBIT "B"

QUALIFICATIONS AND EXPERIENCE FORM

1. Please give the names of up to five (5) cities in which proposer is operating automobile rental concessions with 50 or more cars at an airport location and where your organization occupies space in the airline terminal or has facilities for automobile rentals on an airport. (Use additional paper if necessary).

<u>BUSINESS NAME</u>	<u>LOCATION</u>	<u>DATES</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. List the airports in Wisconsin, if any, in which you operate an automobile rental concession with 50 cars or more and where your organization occupies space in the airline terminal or has facilities for automobile rentals on the airport (use additional paper if necessary).

<u>BUSINESS NAME</u>	<u>LOCATION</u>	<u>DATES</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. State the scheduled hours during which you propose to operate the automobile rental counter.

	<u>FROM</u>	<u>TO</u>
Monday	_____	_____
Tuesday	_____	_____
Wednesday	_____	_____
Thursday	_____	_____
Friday	_____	_____
Saturday	_____	_____
Sunday	_____	_____

4. Do you have or participate in a national advertising program?

Yes ( )      No ( )

5. Have any leases for the operation of airport automobile rental concessions held by your organization, other than leases to the County of Brown, ever been canceled?

Yes ( )      No ( )

(If yes, give details on a separate sheet)

6. List the names of three (3) persons (other than Brown County employees) having knowledge of your ability to conduct business as described in the proposal documents:

Name:

Firm:

Title:

Address:

Telephone:

Nature of Association:

**Name:**

Firm:

Title:

Address:

Telephone:

Nature of Association:

**Name:**

Firm:

Title:

Address:

Telephone:

Nature of Association:

7. Proposed fleet size to be operated at Austin Straubel International Airport? (List number of vehicles – cannot be less than 50)

## EXHIBIT "C"

### FINANCIAL INFORMATION FORM

1. List three (3) persons or firms with whom you have conducted financial transactions during the past three (3) years. The references named must have knowledge of your debt payment history. At least two (2) references must be financial institutions. Please indicate the name of the department and/or person who may be contacted by the evaluators.

#### REFERENCE NO. 1

Name:

Firm:

Title:

Address:

Telephone:

Nature of business association and amount of purchase, sale or loan, etc.:

#### REFERENCE NO. 2

Name:

Firm:

Title:

Address:

Telephone:

Nature of business association and amount of purchase, sale or loan, etc.:

REFERENCE NO. 3

Name:

Firm:

Title:

Address:

Telephone:

Nature of business association and amount of purchase, sale or loan, etc.:

2. Please attach a Balance Sheet and Income Statement prepared in accordance with generally accepted accounting principles reflecting your financial condition for the most recently audited fiscal year. An authorized officer or owner of the organization shall sign said statements.

3. Have you ever had a bond or surety canceled or forfeited?

Yes ( )

No ( )

If "yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

4. Has your business ever declared bankruptcy? Yes ( ) No ( )

If "yes", state the date, court jurisdiction, amount of liabilities and amount of assets.

5. Have you or the Rent-A-Car Company you represent been involved in litigation in the previous five (5) years as plaintiff or defendant generated from your automobile rental concession agreements?

Yes ( )

No ( )

If "yes", state the date, court jurisdiction, case number and outcome. This response should include litigation under the current entity, and d/b/a's thereof and any litigation involving the officers or majority stockholders.

6. Provide any other supplemental information, as proposer you feel is pertinent to the proposal submitted.

## EXHIBIT "D"

### SERVICE AREA DEVELOPMENT FORM

Please describe, in detail sufficient enough to allow the evaluators to evaluate completely, your firms proposed development and use of the Service Area facility for the five (5) years of the Concession Agreement. If proposer currently occupies Service Area, list additional improvements proposed. Use Exhibit "L" (Rental Car Service Area Agreement - Service Area Diagram) and/or additional paper if necessary. Adequate land will be provided by the airport at the specified rate to accommodate development of service area.

#### YEAR 1 (2010)

Currently occupies Service Area:

Number of square feet desired (Service Area):

Number of existing Reserve Lot spaces terminated:

Installation of fuel facility:

( ) Yes ( ) No

Connection to water and sewer:

( ) Yes ( ) No

Construction of wash facility:

( ) Yes ( ) No

Construction of maintenance facility:

( ) Yes ( ) No

Construction of security fence:

( ) Yes ( ) No

Installation of lighting:

( ) Yes ( ) No

If "Yes" to any of above, describe improvement in detail and list any other proposed improvement:

#### YEAR 2 (2011)

Currently occupies Service Area:

Number of square feet desired (Service Area):

Number of existing Reserve Lot spaces terminated:

Installation of fuel facility:

( ) Yes ( ) No

Connection to water and sewer:

( ) Yes ( ) No

Construction of wash facility:

( ) Yes ( ) No

Construction of maintenance facility: ( ) Yes ( ) No

Construction of security fence: ( ) Yes ( ) No

Installation of lighting: ( ) Yes ( ) No

If "Yes" to any of above, describe improvement in detail and list any other proposed improvement:

### YEAR 3 (2012)

Currently occupies Service Area:

Number of square feet desired (Service Area):

Number of existing Reserve Lot spaces terminated:

Installation of fuel facility: ( ) Yes ( ) No

Connection to water and sewer: ( ) Yes ( ) No

Construction of wash facility: ( ) Yes ( ) No

Construction of maintenance facility: ( ) Yes ( ) No

Construction of security fence: ( ) Yes ( ) No

Installation of lighting: ( ) Yes ( ) No

If "Yes" to any of above, describe improvement in detail and list any other proposed improvement:

### YEAR 4 (2013)

Currently occupies Service Area:

Number of square feet desired (Service Area):

Number of existing Reserve Lot spaces terminated:

Installation of fuel facility: ( ) Yes ( ) No

Connection to water and sewer: ( ) Yes ( ) No

Construction of wash facility: ( ) Yes ( ) No

Construction of maintenance facility: ( ) Yes ( ) No

Construction of security fence: ( ) Yes ( ) No

Installation of lighting: ( ) Yes ( ) No

If "Yes" to any of above, describe improvement in detail and list any other proposed improvement:



YEAR 5 (2014)

Currently occupies Service Area:

Number of square feet desired (Service Area):

Number of existing Reserve Lot spaces terminated:

Installation of fuel facility:

( ) Yes ( ) No

Connection to water and sewer:

( ) Yes ( ) No

Construction of wash facility:

( ) Yes ( ) No

Construction of maintenance facility:

( ) Yes ( ) No

Construction of security fence:

( ) Yes ( ) No

Installation of lighting:

( ) Yes ( ) No

If "Yes" to any of above, describe improvement in detail and list any other proposed improvement:

EXHIBIT "E"  
AUSTIN STRAUBEL INTERNATIONAL AIRPORT  
GENERAL INFORMATION

Green Bay, Wisconsin

Green Bay is located in Northeastern Wisconsin at the junction of the Fox and East Rivers, which empty into the bay of Green Bay off of Lake Michigan. The City is 114 miles north of Milwaukee, 204 miles North of Chicago, and 284 miles East of Minneapolis-St. Paul. The City of Green Bay is in Brown County and is 44 square miles in size. It is part of a 196 square mile urban area including Allouez, Ashwaubenon, DePere, Howard, Ledgeview, Hobart, Suamico and Bellevue.

Austin Straubel International Airport

Austin Straubel International Airport, located seven miles Southwest of downtown Green Bay, is ranked as the 3rd largest airport in Wisconsin in terms of the passengers enplaned and deplaned. Austin Straubel handled **844,360** passengers in and out for the calendar year 2008. In addition, over **59,022** general aviation aircraft movements were recorded at Austin Straubel in calendar year 2008.

Four (4) airlines currently serve Green Bay with an average of 44 scheduled commercial flights per day. Two fixed base operators provide services for general aviation at the Airport. Austin Straubel is one of only two designated international airports in Wisconsin.

EXHIBIT "F"  
STATISTICAL INFORMATION

**TABLE I**  
**PASSENGER STATISTICS AT AUSTIN STRAUBEL INTERNATIONAL AIRPORT**  
**2003-2009**

<b><u>CALENDAR YEAR ENDING:</u></b>	<b><u>ENPLANED PASSENGERS</u></b>	<b><u>DEPLANED PASSENGERS</u></b>	<b><u>TOTAL</u></b>
2009 (7 Months)	206,763	208,456	415,219
2008	423,504	420,856	844,360
2007	450,472	446,865	897,337
2006	455,514	451,116	906,630
2005	433,183	435,038	868,221
2004	413,312	415,859	829,171
2003	393,777	393,973	787,750

**TABLE II**  
**CAR RENTAL CONCESSION – GROSS RECEIPTS**

<b><u>Company</u></b>	<b><u>2009 (6 months)</u></b>	<b><u>2008</u></b>	<b><u>2007</u></b>	<b><u>2006</u></b>
Avis	\$935,433	\$3,214,882	\$2,830,483	\$2,736,092
Hertz	\$1,002,251	\$3,198,139	\$2,900,751	\$3,114,334
National/Alamo	\$875,733	\$2,625,111	\$2,625,954	\$2,553,017
Enterprise	\$648,186	\$1,873,930	\$1,719,499	\$1,312,060
Budget	\$133,197	\$ 523,447	\$ 500,352	\$ 307,171
Karcz Ford	\$0	\$0	\$0	\$ 534
Thrifty	\$0	\$0	\$0	\$ 135,321

(Validity of Information – The information provided herein may be of value to bidders in estimating revenue potential, however, Brown County assumes no responsibility and does not guarantee the validity of the statistics.

**EXHIBIT "G"**  
**SELECTION CRITERIA**  
**Project #1372**

Responses to this RFP will be evaluated according to the following criteria:

**1. Proposal Evaluation Process**

The following steps will be observed in the evaluation of the proposals:

- Brown County will establish a proposal evaluation committee;
- The proposal evaluation committee will review all proposals received and score the proposals in accordance with the predefined scoring methodology;
- Composite scores will be developed summarizing the individual scoring efforts of each proposal evaluation team member;
- The proposals will be ranked by composite score;
- Proposers may be invited for an interview.

**2. Proposal scoring methodology**

The following is a summary of the proposal evaluation factors and the point value assigned to each. These factors will be used in the evaluation of the individual proposals. Points will be awarded on the basis of the following factors:

Specifications	Points
1. Quality, clarity and responsiveness of proposal	10
2. Qualifications	15
3. Service Area Development Plan	15
4. Financial information	15
5. Minimum Guarantees	15
7. Proposed Services	15
8. Other Information Provided	15

EXHIBIT "H"  
**ADDENDUM ACKNOWLEDGEMENT**  
**Project #1372**

The undersigned acknowledges receipt of the following addendum:

Addendum #1	_____	Initials	_____
Addendum #2	_____	Initials	_____
Addendum #3	_____	Initials	_____
Addendum #4	_____	Initials	_____

The undersigned agrees with the following statement:

I have examined and carefully prepared the Bid/RFP/quote for Rental Car Services at Austin Straubel International Airport and have checked the same in detail before submitting the Bid/RFP/quote to Brown County. Attached is my listing of subcontractors along with their respective trades-if applicable.

Name \_\_\_\_\_  
Signature \_\_\_\_\_

Date \_\_\_\_\_

If this Bid/RFP/quote is assigned a project number all proposers are responsible to check for addendums, posted on our web site at [www.co.brown.wi.us](http://www.co.brown.wi.us), for this project prior to the due date. No notification will be sent when addendums are posted unless there is an addendum within three business days of Bid/RFP/quote due date.

All proposers receiving initial notification of project and those who register as downloading the project off our web site will be notified, by Brown County, of all addendums issued with-in 3 business days prior to due date. If bid/rfp/quote has already been submitted, proposer is required to acknowledge receipt of addendum via fax or e-mail prior to due date.

Proposer's that do not have internet access are responsible to contact our purchasing department at 920-448-4039 to ensure receipt of addendums issued.

Bids/RFP/quote's that do not acknowledge addendums may be rejected.

All proposals and bids submitted will be sealed. Envelopes are to be clearly marked with required information. Sealed Bids/RFP/quotes that are opened by mistake due to inadequate markings on the outside may be rejected and returned to the proposer.

**EXHIBIT "T"**  
**APPEALS**  
**Project #1372**

According to Brown County Code 25.12:

Any person aggrieved by any decision made in the administration of this ordinance [Airport Regulations] may apply to the Brown County (Planning, Development &) Transportation Committee to reverse wholly or partly, or modify or otherwise change, abrogate, or rescind any such decision upon meeting the following requirements:

- (1) Such appeals be filed within thirty (30) calendar days following the contested administrative action.
- (2) Such appeals shall be filed with the Airport Director in writing, who shall accept it on behalf of the Transportation Committee.
- (3) The appeal shall specify:
  - (a) The specific rule or regulation contested; and
  - (b) The reason(s) for the appeal.

The Brown County Planning, Development and Transportation Committee, upon receipt of the appeal, shall include discussion and action on the appeal at its next regularly scheduled meeting, provided the appeal is received at least ten (10) working days prior to the regularly scheduled meeting.

- (1) Any party may appear in person, by agent, or by attorney in conjunction with the appeal.
- (2) A decision regarding the appeal shall be made unless additional information, facts or testimony is deemed necessary. In such cases, the decision on the appeal shall take place at the next regularly scheduled meeting of the Brown County Planning, Development and Transportation Committee.
- (3) The disposition of the appeal shall be by a majority decision of the Brown County Planning, Development and Transportation Committee. Such decision shall state the specific facts and rational which are the basis for the Committee's decision and shall either affirm, reverse, or modify the administrative action in whole or in part.

## EXHIBIT "J"

**Project #1372**

## Hold Harmless

Proposer hereby agrees to release, indemnify, defend and hold harmless Brown County, their officials, officers, employees and agents from and against all judgments, damages, penalties, losses, costs, claims, expenses, suits, demands, debts, actions and/or causes of action of any type or nature whatsoever, including actual and reasonable attorney's fees, which may be sustained or to which they may be exposed, directly or indirectly, by reason of personal injury, death, property damage, or other liability, alleged or proven, resulting from or arising out of the performance under this agreement by contractor, its officers, officials, employees, agent or assigns. Brown County does not waive, and specifically reserves, its right to assert any and all affirmative defenses and limitations of liability as specifically set forth in Wisconsin Statutes, Chapter 893 and related statutes.

## Insurance Requirements

Vendor, Contractor, Tenant, Provider, Organization or other (will be referred as Outside Contractor) shall provide and maintain at its own expense during the term of their agreement, the following insurance policies covering its operations hereunder are minimum requirements and in no way limit the contractors liability. Such insurance shall be provided on a primary basis by insurer(s) financially solvent and authorized to conduct business in the State of Wisconsin.

The Outside Contractor shall not commence work under this contract until all insurance required under this paragraph is obtained and such insurance has been approved by a County representative, nor shall any Outside Contractor allow subcontractors to commence work on their subcontract until all similar insurance requirements have been obtained and approved by a County representative. Notwithstanding any provisions of this section, and for purposes of this agreement, contractor acknowledges that its potential liability is not limited to the amounts of insurance coverage it maintains nor to the limits required herein.

- (1) **Worker's Compensation Insurance and Employers Liability.**  
State Statutory workers' compensation Limits  
Employer Liability, \$100,000 each accident.
- (2) **Comprehensive General Liability (Occurrence Form).**
  - Products and Completed Operations
  - Personal Injury and Advertising Liability
  - Independent Contractors/ProtectiveLimits of Insurance                      \$1,000,000 per occurrence  
    \$1,000,000 aggregate
- (3) **Business Automobile Liability.** Business Automobile Liability covering all owned, hired, and non-owned vehicles.  
Limits of Insurance     \$1,000,000 per occurrence for bodily injury and property damage.

**(4) Excess/Umbrella Liability.**

**Limit of Insurance**

**\$1,000,000 per occurrence**

**Additional Insured**

The Outside Contractor agrees that the Comprehensive General Liability and Business Automobile Liability insurance policies shall be endorsed to name Brown County as additional insured's with respects to: liability arising out of activities performed by or on behalf of the vendor/contractor: products and completed operations of vendor/contractor; premises owned, occupied or used by vendor; or automobiles owned, leased, hired or borrowed by vendor. The coverage shall contain no special limitations on the scope of protection to the County.

**Subcontractor**

Subcontractors of the Outside Contractor shall also be in compliance with these requirements, including but not limited to, the submittal of a Certificate of Insurance that meet the same requirement outlined for the Outside Contractor.

**Wavier of Subrogation**

Insurers shall waive all subrogation rights against Brown County on all policies required under this requirement.

**Cancellation Notice**

Brown County will be given 30 days notice in advance of cancellation, non-renewal, or material change in coverage.

**Proof of Insurance**

A valid Certificate of Insurance shall be issued to "Brown County" prior to commencement of work and meeting the requirements listed to avoid any interruption of normal business services and transactions. Certificates must bear the signature of the insurer's authorized representative.

The insurance certificate must be issued by companies licensed to do business in the State of Wisconsin or signed by an agent by the State of Wisconsin.

The certificates of insurance shall include a provision prohibiting cancellation of said policies except upon 30 days prior written notice to the County.

The certificates of insurance shall include reference to the contract name or RFP number in the description section of the certificate.

The certificate of insurance will be delivered to Brown County prior to the execution of the contract.

Brown County  
Department of Administration  
P.O. Box 23600  
305 E. Walnut Street  
Green Bay, WI 54305-23600

**Questions**

If any of the insurance requirements cannot be met, please contact the Brown County Human Resource Risk Administration to explain what coverage's you are unable to obtain on your



policy. Please provide information on what contracts you are bidding on or currently hired to work on.

Special considerations will be given if the required amounts cannot be met. This will only take place after an insurance wavier form is completed.

Contact information and telephone numbers for the Brown County Human Resource Risk Administration are listed on the top of the first page.

*\*\*\* Brown County shall be named as an additional insured with respects to liability coverage's other than professional liability and will be given 30 days notice in advance of cancellation, non-renewal, or material change in coverage. A certificate of insurance evidencing such coverage's shall be placed on file with the County prior to commencement of work under this contract. \*\*\**

**EXHIBIT K**

**SAMPLE NON-EXCLUSIVE RENTAL CAR CONCESSION AGREEMENT**

**AUSTIN STRAUBEL INTERNATIONAL AIRPORT**

**BETWEEN**

**BROWN COUNTY**

a municipal corporation

**AND**

# NON-EXCLUSIVE RENTAL CAR CONCESSION AGREEMENT

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NON-EXCLUSIVE RENTAL CAR CONCESSION AGREEMENT

--  
ARTICLE I  
GENERAL AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of January, 2010, by and between BROWN COUNTY, a municipal corporation, hereinafter referred to as the "COUNTY" and \_\_\_\_\_, hereinafter referred to as "CONCESSIONAIRE".

WITNESSETH

WHEREAS, the County is the owner and operator of Austin Straubel International Airport, an airport situated in Brown County, Wisconsin (the "Airport"); and

WHEREAS, Concessionaire has submitted a Request for Proposal to the County and desires to operate a rental car business at the Airport; and

WHEREAS, the County desires to make car rental services available at the Airport and Concessionaire is qualified, ready and able to perform these services; and

WHEREAS, the County deems it advantageous to the operation of its Airport to grant Concessionaire the rights and privileges as herein set forth:

IT IS MUTUALLY AGREED AND UNDERSTOOD BETWEEN THE COUNTY AND THE CONCESSIONAIRE THE FOLLOWING:

ARTICLE II  
PREMISES

For the privilege of operating and managing a concession for the rental of automobiles and light trucks, the County hereby grants to the Concessionaire the use of the space shown on Exhibits A, B and C attached hereto and made a part hereof, which space may be changed or exchanged by the Airport Director at any time for comparable space as determined by the Airport Director. If the change is solely for the benefit of the County, the Airport Director agrees to negotiate reimbursement with Concessionaire for any reasonable expense caused by its relocation.

ARTICLE III  
TERM OF AGREEMENT

The term of this Concession Agreement shall be for five (5) years, commencing on the first day of January, 2010, through the 31st day of December, 2014, unless sooner terminated or cancelled as herein provided.

ARTICLE IV  
FEES AND RENTALS

From and after the commencement date, Concessionaire agrees to pay to the County the following rentals and fees:

1. Ten (10%) percent of Concessionaire's gross receipts as hereinafter defined or a minimum annual guarantee for each year of the term of this Concession Agreement according to the following schedule, whichever is greater:

First Contract Year (2010)	(Amount in words)	\$
Second Contract Year (2011)	(Amount in words)	\$
Third Contract Year (2012)	(Amount in words)	\$
Fourth Contract Year (2013)	(Amount in words)	\$
Fifth Contract Year (2014)	(Amount in words)	\$

For each month of the term of this agreement, a sum equal to one twelfth (1/12) of the then applicable Minimum Annual Guarantee (MAG) as stated above shall be paid to the County in advance and without demand, on the first (1<sup>st</sup>) day of each calendar month after the commencement date of this agreement. Twenty days after the beginning of each calendar month during the term hereof, Concessionaire shall pay to the County a sum of money which represents the excess of the difference between the ten percent (10%) fee and the Minimum Annual Guarantee Fee for the previous month. In the event the Percentage Fee shall not exceed the MAG Fee during any month in the term hereof, then no percentage fee shall be due and payable for such month.

The above mentioned ten (10) percent shall be collected by the Concessionaire from its customers as follows: The Concessionaire shall add a ten (10) percent fee as a separate line item charge on each customer's contract. This separate line item shall be designated on the rental contract as an airport user fee. This fee shall be collected only on items that fall within the scope of gross receipts as defined in Article IV, Section 3.

On or about February 1, 2011, and on or about every February 1st thereafter up to and including February 1, 2015, Concessionaire shall compare the gross revenues paid to the Airport in the preceding contract year to the appropriate minimum guarantee above. If the minimum guarantee is greater than the gross receipts paid during that year, the difference shall be remitted to the Airport within 30 days. If this Concession Agreement is canceled for any event listed herein, with the exception of those events listed in Article XIV, Concessionaire shall remit to the Airport within thirty (30) days the difference between the minimum annual guarantee for that contract year and gross receipts paid during that contract year. The Airport Director may, at his discretion, allow the proration of any minimum annual guarantee if this Concession Agreement is executed or cancelled in mid-term.

In the event that the operation of Concessionaire's car rental business at the Airport, through no fault of its own, is affected by shortages or other disruptions in the supply of gasoline which results in the material diminution in Concessionaire's gross revenues herein for a period of at least thirty (30) consecutive days, Concessionaire will continue to pay the County the ten percent (10%) concession fee, and the County will return to Concessionaire a just portion of any minimum annual guarantee payment which may have been prepaid.

If, for any reason, the number of passengers deplaning from scheduled airline flights at Austin Straubel International Airport during any calendar month, shall be lower than 75% of the number of such deplaning passengers for the same month of the immediately preceding contract year or of the year immediately preceding the first year of this contract, one twelfth (1/12) of the MAG herein provided shall be abated for the month this condition exists. During the period of abatement, Concessionaire will continue to pay the 10% gross receipts and the Airport will return to Concessionaire a just proportion of any minimum annual guarantee payment which may have been prepaid.

2. Rentals - In addition to Concessionaire paying the above percentage or minimum guarantee for each year, Concessionaire shall pay the County for terminal building service counter and office space, Ready Car parking stalls and Reserve Lot stalls as follows:

A. LEASED SPACE:

Three hundred seventy (370) square feet (Exhibit A) of improved service counter and office space in the existing rental car counter area at the following rates:

PERIOD COVERED	RATE PER SQ. FT.
January 1, 2010 to December 31, 2010	\$26.13

For the years 2011, 2012, 2013 and 2014, the space rental rates will be adjusted to the same percentage increase as then being increased for the airlines.

B. READY LOT/RESERVE LOT

2010:	0	stalls in the Ready Lot and
	0	stalls in the Reserve Lot.
2011:	0	stalls in the Ready Lot and
	0	stalls in the Reserve Lot.
2012:	0	stalls in the Ready Lot and
	0	stalls in the Reserve Lot.
2013:	0	stalls in the Ready Lot and
	0	stalls in the Reserve Lot.
2014:	0	stalls in the Ready Lot and
	0	stalls in the Reserve Lot.

Concessionaire assigned Ready Lot parking stalls shall be described in Exhibits B attached hereto and made part hereof. The Concessionaire agrees the rental to be paid to the County for the use of the car rental parking area shall be Ten Dollars (\$10.00) per month for each Ready Lot parking space.

All fixed charges are due in advance on or before the fifth (5th) day of each month. All payments of gross receipts shall be paid in arrears on or before the twentieth (20th) day of each month.

3. Gross Receipts - The term gross receipts as used herein shall be construed to mean the total amount actually charged to the customer by Concessionaire on the date of vehicle rental for or in connection with the use of a vehicle contracted for, delivered or rented to the customer at the Airport, regardless of where or by whom the payment is made or where the vehicle is returned, except only as hereinafter specifically excluded. Without in any way limiting the scope and generality of the foregoing definition, gross receipts shall specifically include but

not necessarily be limited to the following:

- A. All time and mileage charges;
- B. All amounts paid or payable to Concessionaire by its customers for acceptance of a collision damage waiver (CDW), a loss damage waiver (LDW), or insurance including personal effects coverage (PEC), personal accident insurance coverage (PAC), cargo, life insurance, supplemental liability insurance, safe trip insurance, extended protection, or other insurance offered to customers now or hereafter;
- C. Equipment fees charged to customers including additional drivers, underage driver, upgrades of vehicle and exchange charges;
- D. Net fees generated from the rental or sale of mobile telephones, computerized navigation or similar services of whatsoever nature now or hereafter, such net fees to be determined as the difference between actual selling price to customers and actual cost to Concessionaire for the purchase of said services;
- E. Fees generated from contractual services provided by Concessionaire to other airport concessionaires, users or other third parties;
- F. Fees for the rental of child/infant car seats or restraints, ski racks, bicycle racks, recreational gear including ski equipment, boating equipment, fishing tackle, golf clubs, personal computers, facsimile machines, and other vehicle accessories or services of whatsoever nature offered to customers now or hereafter;
- G. Other services and fees including facsimile transmittals, photocopying, maps and other services offered now or in the future; and
- H. All amounts net of customer discounts if said discounts are itemized on the customer rental agreement contract paid or payable on the date of the original rental of a vehicle at the Airport, even if the rental agreement for such vehicle may have been renewed at another location.

For the purpose of computing gross receipts, no deduction shall be allowed from gross receipts for the payment of franchise taxes, income taxes or other taxes levied on the activities facilities or real or personal property of Concessionaire or the concession fees paid or payable by Concessionaire to the Airport hereunder. The only exclusions from gross receipts permitted under this Agreement shall be the specific exclusions set forth below:

- A. Federal, state, or municipal sales or similar taxes which are separately stated and collected from customers of the Concessionaire;
- B. Revenue realized by the Concessionaire for fueling a vehicle rented pursuant to a rental agreement with the customer;
- C. Amounts received as insurance proceeds or otherwise for damage to vehicles and other



property of the Concessionaire;

D. Sums received for loss, conversion, or abandonment of its vehicles;

E. Sums received from customers of the Concessionaire, under its right to recover from its customers, for damages to the rented vehicles;

F. Proceeds received by the Concessionaire from the sale of its vehicles; or

G. Sums received from customers of the Concessionaire for airport user fee as defined in Article IV, Section 1.

H. Corporate or volume discounts/rebates may be excluded from gross receipts if the Concessionaire can establish for each corporate or volume customer rental:

1. The amount of the rebate;
2. That the amount Concessionaire claims as an exclusion from Gross Receipts is attributable to rental car transactions at the Airport by that corporate or volume customer;
3. Discounts/rebates must have been reimbursed to corporate or volume customers within one (1) year from the date of customer contract with concessionaire.

The Concessionaire shall have the right to conduct part of its business on a credit basis; PROVIDED, HOWEVER, that the risk of such operation shall be borne solely by the Concessionaire, and the Concessionaire shall report all income, both cash and credit, in its monthly gross receipts statement submitted to the Airport Director. There will be no deduction allowed for bank charges, credit card company fees, uncollected or uncollectible credit accounts or charges made by collection agencies. In addition, each transaction made on installment or credit shall be treated as a transaction for the full price in the month during which such charge or transaction is made, regardless of the time when the Concessionaire receives payment, whether full or partial, thereof.

4. Failure to Pay Rent or Fees - No demand for rent or fees need at any time be given, but it shall be the duty of Concessionaire to pay all monies when due. In the event Concessionaire fails to pay rentals, fees, charges or billings as required under the provisions of this Concession Agreement after the payments become due as described in Articles IV and V, interest at the maximum legal rate shall be assessed until fully paid. The implementation of this provision shall not preclude the Airport Director from terminating this Concession Agreement for default in the payment of rentals, fees or charges, as

specified in Article XIII.

5. Security Deposit – New Concessionaires shall pay a security deposit equal to the first months rent prior to the commencement of this agreement. The security deposit will be held in a non-interest bearing account for the first agreement term, if the Concessionaire is a successful proposer for a consecutive term, the security deposit will be refunded. If Concessionaire defaults in any such obligation to the County or damages the Premises, the County at its discretion, may apply said deposit, or part thereof, to compensate the County for any loss, damage, or expense sustained due to such default or damage. Any such application by Concessionaire of such deposit to compensate the County for any loss, damage, or expense sustained due to such default or damage shall be in addition to, and not in lieu of, any other remedies or rights the County may have under this lease, contract, or at law upon such default or damage by Concessionaire. Upon the County's request, Concessionaire shall immediately remit to the County sufficient moneys to restore said sum so applied to the original sum deposited credit. Concessionaire's failure to do so within five (5) days after receipt of a written demand therefore shall be a default under this Lease and Concessionaire shall cease use of the County's facility immediately.

After termination of this Lease, the balance of any such security deposit, minus deductions for damage to the Premises, if any, shall be returned to Concessionaire within 45 days.

6. Performance Bond/Letter of Credit – At the time of the Concession Agreement's execution, Concessionaire shall deliver to the Airport Director a surety bond or letter of credit acceptable to the County guaranteeing payment of a sum equal to 25% of the minimum annual guarantee during each year of the term of the Concession Agreement.

## ARTICLE V

### REPORTING AND INSPECTION

1. Monthly Report - Concessionaire shall, within twenty (20) days after the close of each calendar month, furnish the Airport Director a monthly statement of gross receipts and total number of rental contracts (Exhibit E attached hereto and made part hereof) prepared in accordance with generally accepted accounting principles and certified by a responsible officer of Concessionaire. These reports shall show such reasonable data and revenue detail as is required by the Airport Director and shall be accompanied by Concessionaire's payment of any compensation due herein based upon ten percent (10%) of gross receipts as defined in Article IV.

The Airport Director reserves the right to prescribe or change reporting forms, their method and time of submission, and the payment schedule. The Airport Director shall first submit to Concessionaire in writing specifically any desired changes. Such requests shall not be

unreasonable.

2. Audit and Inspection

A. Concessionaire shall furnish the Airport Director an annual financial statement within ninety (90) days after the end of each contract year. This statement shall include a report certified by a responsible officer of Concessionaire of gross receipts for that contract year. It is further provided that the County, or any designated agent, representative or employee, may at all reasonable times audit the books of the Concessionaire regarding this Concession Agreement to enable the County to verify the amount of fees due. It is the intention of the parties that the County's audit will be on an annual basis; however, the County reserves the right to make the audit at any time.

B. If the County is not satisfied with any audit findings conducted by it, the Airport Director shall serve notice upon Concessionaire of the dissatisfaction. If Concessionaire agrees with the County's audit findings, Concessionaire shall within thirty (30) days after receipt of notice make known its agreement to the Airport Director in writing and pay all monies due to the County. If Concessionaire does not agree with the County's findings, Concessionaire shall, within sixty (60) days after receipt of notice from the Airport Director, furnish to the Airport Director at Concessionaire's expense an audit made by an Independent Certified Public Accountant mutually agreeable to both parties. All expenses of the County's audit shall be paid by Concessionaire if the report of the Independent Certified Public Accountant certifies that the County's audit contained a finding prejudicial to the County's receipt of gross receipts as heretofore described, in an amount equal to or greater than two percent (2%) of the amount of gross receipts reported by Concessionaire.

C. The final audit of the Independent Certified Public Accountant made under subparagraph "B" shall be conclusive upon the parties, and Concessionaire shall pay to the County, within thirty (30) days after a copy of the Certified Public Accountant's final report has been delivered to Concessionaire, the amount, if any, shown thereby to be due and owed to the County. The failure of Concessionaire to make payment within this thirty (30) day period shall constitute a material breach of this Agreement and shall give cause to the County for immediate termination thereof.

## ARTICLE VI

### RIGHTS AND PRIVILEGES OF CONCESSIONAIRE

Subject to the terms and conditions hereinafter set forth, Concessionaire is hereby given the following rights and privileges during the term of this Concession Agreement:

1. Nonexclusive Use - Concessionaire has the nonexclusive use, in common with others so authorized, to provide to the public a rental car service at the Airport subject to reasonable

and uniform rules and regulations of the County as to the use of such facilities. The Airport Director may grant the right to operate nonexclusive automobile rental concessions for up to three (3) other on-airport rental car concessionaires. Any other on-airport rental car concessionaire granted such rights and privileges at the Airport must meet the requirements as set forth in a concession agreement with terms no more favorable than under this Concession Agreement, except that each Concessionaire's service area use may vary in accordance with that proposed by each Concessionaire. If during the term of this Concession Agreement, a concession agreement is cancelled by either the Concessionaire or County, and a new concession agreement is entered into, the minimum guarantees of the new concessionaire shall be no less than the minimum annual guarantees specified in the cancelled Concession Agreement. The Airport Director may enter into an off-airport rental car agreement or agreements, and this shall not be considered in violation of this Concession Agreement. The County shall, to the extent possible and practical, enter into off-airport rental car agreements with terms and conditions similar to those in this Concession Agreement.

2. Ingress and Egress - Concessionaire, its agents, employees, patrons and suppliers, and other persons doing business with Concessionaire shall have the right of ingress and egress to and from the Premises over the Airport roadways, subject to regulations governing the use of the Airport.
3. Quiet Enjoyment - The County covenants that upon paying the rent and performing the covenants and conditions herein contained, Concessionaire shall peacefully and quietly have, hold and enjoy the Premises for the term of this Concession Agreement. Concessionaire agrees that temporary inconveniences, such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements shall not constitute a breach of quiet enjoyment of the Leased Premises.
4. Right of Entry - Upon execution of this Concession Agreement, the Concessionaire shall be entitled to enter upon the property for the purpose of construction and installation of any fixed improvement required herein subject to the approval of the Airport Director.

#### ARTICLE VII

##### RIGHTS AND PRIVILEGES OF COUNTY

The County, in addition to any rights herein retained by it, reserves the following privileges:

1. The Airport Director is hereby designated as the official representative for the enforcement of all provisions in this Concession Agreement with full power to represent the County in dealings with Concessionaire in connection with the rights and obligations herein provided, actions relating to policy determination, modification of this Agreement, subsequent permissive authorization under

this Agreement, termination of this Agreement, and any similar matters affecting the terms of this Concession Agreement.

2. County reserves the right, but shall not be obligated to Concessionaire, to develop or improve all publicly-owned facilities of the Airport, as it sees fit, regardless of the desires or views of the Concessionaire, and without interference or hindrance from Concessionaire, together with the right to direct and control all activities of the Concessionaire in this regard.

3. During time of war, national emergency, riot or natural disaster, the County shall have the right to lease the entire Airport or any part thereof to the United States or State of Wisconsin for military or National Guard use and, in such event, the provisions of this Agreement, insofar as they are inconsistent with the provisions of any lease to any such unit of government, shall be suspended for the period of such government lease.

4. The Airport Director or his designee may enter upon the Leased Premises at reasonable times for any purpose necessary, incidental to, or connected with the exercise of its governmental functions, or for fire protection or security purposes.

5. This Agreement shall be subordinate to the provisions of any existing or future agreement between the County and the United States Governments, relative to the operation or maintenance of the Airport, the execution of which has been, or may be, required as a condition precedent to the expenditure of federal funds for the development of the Airport.

6. The Airport Director shall have the right to repair all damages to the concession area and to the Airport Terminal Building caused by the Concessionaire or its employees, agents or suppliers, while in a working capacity for Concessionaire, and will bill the cost of such repairs to Concessionaire. Such charge shall be paid within fifteen (15) days of the receipt of a bill from the County.

7. During the term of this Agreement, County has the option to require Concessionaire to collect a Customer Facility Charge (CFC), on behalf of the County from each car rental customer, if, while during the term of this Agreement, the Airport Director determines there is a defined need to develop new facilities for the rental car companies. If such CFC is to be imposed, County will provide at least 180 days notice to rental car companies.

#### ARTICLE VIII

##### OBLIGATIONS OF CONCESSIONAIRE

Concessionaire shall be required to provide all necessary improvements, facilities, decorations, signs, fixtures and equipment and all other improvements within the Leased Premises not provided by the County. Such improvements, facilities, decorations, fixtures and equipment shall be of high quality, safe, modern in design, attractive in appearance, and shall be in general keeping with the

decor of the building and surrounding areas and shall be subject to the written approval of the Airport Director prior to installation within the Leased Areas. In addition, Concessionaire must install all needed furniture.

1. Janitorial Service - Concessionaire shall provide and pay for its janitorial service within its Leased Premises. In the event Concessionaire fails to comply with this paragraph, the Airport Director may notify Concessionaire in writing that such maintenance, cleaning, repair or replacement shall be done, and in the event that Concessionaire fails to correct the condition within thirty (30) days of the County's written notice, the County may enter the Premises of Concessionaire and provide the necessary custodial services, including the replacement of any furnishings in Concessionaire's Premises visible to the general public, and bill the Concessionaire for the expense thereof.
2. Alterations, Additions or Replacements - Concessionaire shall obtain prior written approval from the Airport Director before making any changes or improvements in the Leased Premises. In addition, Concessionaire shall obtain prior approval from the Airport Director before installing any equipment which requires any electrical connection or changes in those installed on the Premises.
3. Alteration of Electrical Equipment - In the event Concessionaire desires electrical outlets other than the standard 110-volt outlets provided by the County, Concessionaire shall install and pay for the additional installations, first obtaining written approval from the Airport Director.
4. Agency Agreement - It is understood and made a specific condition of this Agreement that the Concessionaire is the holder of a license, franchise, agency agreement or other form of consent from Broadway Rental Cars, Inc. and shall do business at the Airport under the trade names and styles of that company.
5. Service Area - On the Premises designated as the Rental Car Service Area, Concessionaire shall construct such facilities identified and agreed upon in Concessionaire's Service Area Development Plan. The construction of improvements shall be in accordance with the terms and conditions of the Rental Car Service Agreement.
6. Disturbance - Concessionaire agrees that it will not disturb the County, or any other tenant of the Airport, including other rental car operators at the Airport, by creating or permitting any disturbance or any unusual noise, vibration, or other undesirable condition on or about the Premises.

7. Discrimination - Concessionaire, for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree, that (a) no person on the grounds of race, sex, color, physical handicap, or national origin, cultural differences, ancestry, physical appearance, political beliefs, military participation, or membership in the national guard, state defense force or any other reserve component of the military forces of the United States shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said service, and (b) that the Concessionaire shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
8. Assignment of Agreement or Merger
- A. Concessionaire will not assign this Agreement without the written consent of the County.
- B. Concessionaire will not unite, merge, consolidate or combine, either directly or indirectly, with any other person, firm or corporation operating at the Airport under any other automobile rental concession, whether such uniting, merging, consolidating or combining be through the sale of property or sale of stock or otherwise.
- C. Any attempt by Concessionaire to perform any of the acts prescribed in this paragraph without the prior written consent of the County shall be null and void and shall be cause for the termination of this Agreement.
9. Indemnification and Hold Harmless - Concessionaire hereby agrees to release, indemnify, defend, and hold harmless Brown County, their officials, officers, employees and agents from and against all judgments, damages, penalties, losses, costs, claims, expenses, suits, demands, debts, actions and/or causes of action of any type or nature whatsoever, including actual and reasonable attorney's fees, which may be sustained or to which they may be exposed, directly or indirectly, by reason of personal injury, death, property damage, or other liability, alleged or proven, resulting from or arising out of the performance of contractor, its officers, officials, employees, agent or assigns. Brown County does not waive, and specifically reserves, it's right to assert any and all affirmative defenses and limitations of liability as specifically set forth in Wisconsin Statutes, Chapter 893 and related statutes.
10. Insurance - Concessionaire shall provide and maintain at its own expense during the term of this agreement, the following insurance policies covering its operations hereunder. These insurance requirements are minimum and in no way limit the Concessionaire liability. Such

insurance shall be provided on a primary basis by insurer(s) financially solvent and authorized to conduct business in the State of Wisconsin.

Notwithstanding any provisions of this section, and for purposes of this agreement, contractor Concessionaire acknowledges that its potential liability is not limited to the amounts of insurance coverage it maintains or to the limits required herein.

(1) Worker's Compensation Insurance and Employers Liability.

State Statutory workers' compensation Limits

Employer Liability \$100,000 each accident.

(2) Comprehensive General Liability (Occurrence Form).

· Products and Completed Operations

· Personal Injury and Advertising Liability

· Independent Contractors/Protective

Limits of Insurance

\$1,000,000 per occurrence

\$1,000,000 aggregate

(3) Business Automobile Liability. Business Automobile Liability covering all owned, hired, and non-owned vehicles.

Limits of Insurance

\$1,000,000 per occurrence for bodily injury and property damage.

(4) Excess/Umbrella Liability.

Limit of Insurance

\$1,000,000 per occurrence

Adjustments to Insurance Coverage

The limits of liability as set forth herein shall be periodically reviewed and adjustments made so as to provide insurance coverage in keeping with increases in the Consumer Price Index and what is deemed to be prudent and reasonable by the County or its representatives. In the event that the County determines that the limits need to be adjusted at sometime after the initial term of the contract, the County shall give notice to the contractor in writing of the new limits and the Contractor shall make such adjustments to its insurance coverage within 60 day of such notice.

PROOF OF INSURANCE

Concessionaire shall furnish the County with a Certificate of Insurance countersigned by a Wisconsin Resident Agent or Authorized Representative of the insurer indicating that Concessionaire meets the insurance requirements identified above. The Certificates of Insurance shall include a provision prohibiting cancellation of said policies except upon 30 days prior written notice to the County and specify the name of the contract covered. The Certificate of Insurance shall be delivered to the Airport prior to the execution of this contract. Upon renewal of the required insurance and annually thereafter, the County shall receive a new Certificate of Insurance.

Property Insurance

Concessionaire shall purchase and maintain, contents insurance on all personal property



insurance written on a "all Risk" basis or equivalent policy form and shall include, with out limitation, insurance against the perils of fire (with extended coverage) theft, vandalism and malicious mischief.

#### Waiver of Subrogation

Concessionaire agrees notwithstanding any provision of this contract to the contrary, to waive any right to any claim or subrogation against the County for any loss, damages cost of settlement otherwise covered by Concessionaires insurance as required under this contract.

11. Costs of Enforcement - Concessionaire covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and expenses that shall be made and incurred by the County in enforcing the covenants and provisions of this Agreement.
12. Licenses and Permits - Concessionaire shall take out and keep current all city, county, state, and/or federal licenses and permits that may be required in its operation.
13. Laws and Ordinances - Concessionaire shall comply with, at its own cost and expense, all applicable federal, state, or local laws, ordinances, rules or regulations of the Airport now in effect or hereafter promulgated. Any violation of this paragraph shall be construed as a material breach of this Concession Agreement authorizing the termination thereof at the election of the Airport Director, unless Concessionaire, upon receipt of written notice, takes immediate remedial measures acceptable to the Airport Director.
14. Sales and Property Taxes - Concessionaire shall pay any leasehold tax, sales tax, personal property tax, transaction tax or other exaction assessed or assessable as the result of its occupancy of the premises or conduct of business at the Airport under authority of the Agreement, including any such tax payable by the County.
15. Smoking - Consistent with Brown County Code Ch. 34; Lessee agrees that there will be no smoking in any of its leased space in the terminal building.
16. Recycling - The County has implemented a material recycling program in a form acceptable to Wisconsin Administrative Code, NR 544, to reduce the quantity of waste disposed of in landfills and to conserve valuable natural resources. The County reserves the right to modify the plan from time to time as it deems necessary to accomplish its purposes. Concessionaire shall at all times comply with the recycling program and indemnify and hold harmless the County from any violations of the recycling program committed by any employee or agent of Concessionaire. Concessionaire further agrees to reimburse County in full for any fines or penalties levied against County for any and all recycling violations as a result of negligent actions taken on the part of the Concessionaire, its agents, suppliers or

employees occurring at any waste disposal container used exclusively by any Concessionaire.

17. Compliance with Environmental Laws – Concessionaire shall at all times conduct its operations in full compliance with all federal, state, and local environmental laws, rules, regulations, orders or legislation (hereinafter, “Environmental Laws”). Concessionaire shall ensure that its employees, agents, contractors, subcontractors, and any other persons under Concessionaire’s control are in full compliance with all Environmental Laws and shall pay all expenses, fine, forfeitures and other assessments related with any non-compliance therewith. Concessionaire shall be responsible for obtaining in its name all necessary government permits or other approvals required by any Environmental Laws. By executing this Lease, Concessionaire represents that it has investigated and is familiar with all Environmental Laws applicable to its operations under this Lease and expressly acknowledges that County may rely on such representation.

Concessionaire shall provide written notice to the Airport Director within 24 hours of becoming aware of any release, threatened release, discharge, disposal or emission of any hazardous material, including substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table, 49 CFR 172.101, or identified by the Environmental Protection Agency as hazardous substances under 40 CFR Part 302 and amendments thereto, in, on, under or around the leased premises caused by Concessionaire which is not in full and complete compliance with all laws. Any fuel spills caused by Concessionaire must be immediately reported to Airport Public Safety at (920)498-4820. Concessionaire is required to properly clean up all spills, including, but not limited to fuel, oil, etc., caused by Concessionaire at its expense as soon as practicable.

18. Affirmative Action – Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E.
19. Brands – Concessionaire shall be prohibited from operating at the Airport under any brand name or trade name other than the brand name(s) or trade name(s) that it originally designated in its response to the Request for Proposals (RFP) issued with respect to this Lease. Concessionaire may not operate more than a total of two(2) trade or brand names. During the term of this lease, Concessionaire shall operate and maintain all signage only under the brand or trade name(s) originally designated in its response to the RFP. No other brand or trade name may be used or displayed by the Concessionaire at the Airport or upon the airport premises during the term of this Lease.

If Concessionaire utilizes any particular brand or trade name under a license or franchise agreement, Concessionaire represents and warrants to the County that Concessionaire has been granted the right to use any such brand or trade name that may be used at the Airport for the entire term of this Lease, pursuant to a franchise or license agreement with the trade name owner. At the County's request, Concessionaire shall provide the County with a copy of the Franchise Agreement and reasonable evidence that such agreement remains in full force and effect. Concessionaire agrees that the termination of Concessionaire's right to use Concessionaire's brand or trade name at the Airport or to conduct a rental car concession at the Airport of the type then conducted by or under license from Franchisor under the brand or trade name, shall constitute a material breach of Concessionaire's obligations under this Lease.

#### ARTICLE IX

#### MAINTENANCE AND OPERATIONS BY CONCESSIONAIRE

1. Concessionaire warrants that it shall use the Premises as a service and administrative area for its rental car operation at the Airport. Concessionaire may engage in the sale of rental vehicles from Airport property providing such sale is incidental to the rental car business and the manner of advertising and display of vehicles meets the approval of the Airport Director. Concessionaire shall not use the Premises for any other purpose without the written consent of the Airport Director. The Airport Director may authorize the use of the Premises for any other purpose upon terms and conditions that the Airport Director, in his sole discretion, shall determine. Concessionaire shall use the entire Premises for the conduct of such business in a first-class and businesslike manner continuously during the entire term of this Concession Agreement, with the exception of temporary closures for such periods as may be reasonably necessary for repairs or redecorating or for reasons beyond Concessionaire's reasonable control.
2. During the continuance of this Agreement, Concessionaire shall at all times maintain an adequate number of vehicles to meet reasonable public demand, taking into consideration the varying seasonal requirements of the traveling public. The minimum number of vehicles shall never be less than 50.
3. The hours the service counter shall be staffed and vehicles offered for public service on the Airport in the operation of this Concession Agreement shall be:

FROM

TO

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

While hours above are meant to be a guide, loss of rental car sales as a result of shortened hours shall be considered unacceptable and Concessionaire would then be required to maintain the hours listed above.

4. Concessionaire shall maintain, at its own cost and expense, all vehicles and equipment used in the conduct of Concessionaire's business in good mechanical condition, free from known defects, and in a clean and presentable condition.
5. Oral solicitation of Concessionaire's business shall be made only behind Concessionaire's designated counter within the passenger terminal building, and Concessionaire shall prohibit and restrain its agents, servants and employees from loud, noisy, boisterous, or otherwise objectionable solicitation. However, the Airport Director may, at his discretion, allow Concessionaire to conduct customer assistance activities outside its counter area. The Concessionaire may identify and advertise its automobile rental counter in an equal or comparable manner to those of other automobile rental Concessionaires operating in the Airport Terminal Building by signs of equal size to those of other Concessionaires approved by the Airport Director. In addition, all other advertising materials of whatever nature, including but not limited to, rates, schedules, accounting forms, etc., shall not unduly clutter the service counter area, said service counter area to be maintained in a clean and orderly manner, and all displayed materials shall be subject to the approval of the Airport Director.
6. Personnel performing services for Concessionaire herein shall be neat, clean and courteous. All rental car personnel, both counter and service, must be identified by company uniform during their hours of work.
7. Concessionaire shall not divert customers or revenue from the Airport where any part of a rental contract was negotiated or referral made at the Airport or through any airline. Concessionaire also shall not use any media for this purpose.
8. Concessionaire shall pay for all costs of operation of communication equipment used or installed by it.
9. Concessionaire agrees that it will not utilize the parking area in front of the Airport Terminal Building for dispatch of its customers. If the Concessionaire fails to comply with

this paragraph, the Airport Director shall have the authority to terminate this Concession Agreement or to suspend it upon giving Concessionaire three (3) days written notice that it is in violation of this paragraph.

#### ARTICLE X CONDUCT OF BUSINESS

1. Concessionaire covenants and agrees that all charges and earnings for services rendered at the Airport under the operation of said Concession Agreement shall be considered cash, in the calculation of payments hereunder. Concessionaire covenants and agrees, except as may otherwise be provided in other contracts entered into between Concessionaire and the County, that the Concessionaire will not engage in any business at the Airport other than that permitted under the terms of this Agreement.
2. Concessionaire further covenants and agrees that it will not enter into or execute any contract to park its vehicles at the Airport except with the consent of the Airport Director.
3. Concessionaire shall conduct its operations within the Airport in such a manner as shall reduce to the minimum that is reasonably practicable the emanation of noise, vibration, dust, fumes and odors so as not to interfere with the use of adjacent areas on the Airport.

#### ARTICLE XI OWNERSHIP OF LEASEHOLD PREMISES

Concessionaire shall have the right, during the term of this Concession Agreement, at its own expense, at any time from time to time, to install, maintain, operate, repair and replace any and all trade fixtures, removable structures, and other personal property used from time to time in its operation at the Airport, all of which shall be and remain the property of Concessionaire except as herein provided, and may be removed by Concessionaire prior to or within thirty (30) days after the expiration of the term of this Concession Agreement; provided, however, that the Concessionaire shall repair any damage to the structures caused by such removal. The failure to remove trade fixtures, removable structures, or other personal property after Concessionaire receives a written demand for such removal by the Airport Director shall be deemed abandoned and thereupon be the sole property of the Airport. It is understood, for the purpose of this Concession Agreement, that the phrase "trade fixtures" shall include but not be limited to any removable structures, signs, electrical or otherwise, used to advertise Concessionaire's business in and about the Premises, whether or not such machinery or equipment is bolted or otherwise attached to the Premises, and all other miscellaneous equipment.

#### ARTICLE XII OBLIGATIONS OF THE COUNTY

Except as otherwise specifically provided herein, the County, during the term of this Agreement,

shall, within its financial ability, operate, maintain, and keep in good repair all appurtenances, facilities, and services now or hereafter connected with Airport. The County shall maintain and operate the Airport in all respects in a manner at least equal to the standards or ratings issued by the Federal Aviation Administration (FAA) for airports of substantially similar size and character.

The County also agrees to:

1. Furnish 110-volt electricity as may be reasonably necessary for illumination and the operation of the Concessionaire's business office machines at the service counter/office area;
2. Furnish the necessary heating and cooling as determined by the County in the terminal building;
3. Furnish counter shells in the designated rental car business area in the terminal building;
4. Perform normal custodial duties around the Concessionaire's service counter area, including sweeping and dusting, removing any trash and taking reasonable precautions to prevent Concessionaire's Premises and any supplies therein from being tampered with, damaged, destroyed, marred or removed, but shall not be liable for any such damage or removal not caused by its own negligence;
5. Furnish lighting, snow removal and general maintenance of the Ready Car and Reserve Lot parking areas;
6. Provide parking spaces for the parking of Concessionaire's automobiles. The Concessionaire agrees the car rental parking area shall be jointly used by all car rental agencies authorized by the County to operate car rental agencies at the Airport. The parking spaces shall be allocated by rows and will be properly signed; and
7. Supply "lamps" used in electrical fixtures in Concessionaire's exclusive use areas. To comply with recycling requirements, new lamps will be exchanged for burned out lamps. Concessionaire agrees to be billed and pay for the cost of the new lamp(s) as well as the recycling cost of the old lamp(s).

#### ARTICLE XIII

#### CANCELLATION BY THE COUNTY

The Airport Director may cancel this Concession Agreement upon or after any one of the following events:

1. The filing by Concessionaire of a voluntary petition in bankruptcy;

2. The institution of proceedings in bankruptcy against Concessionaire and the adjudication of Concessionaire as bankrupt pursuant to such proceedings;
3. The taking by a court of jurisdiction of Concessionaire and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act;
4. The filing of any lien against the premises resulting from any act or omission of Concessionaire which is not discharged or contested in good faith as determined by the County by proper legal proceedings within fifteen (15) days of receipt of actual notice by Concessionaire, unless Concessionaire posts a bond within this time period equal to the amount of the lien;
5. The voluntary abandonment by Concessionaire of its operations at the Airport for a period of fifteen (15) days or more;
6. The appointment of a receiver of Concessionaire's assets, or any general assignment for the benefit to Concessionaire's creditors;
7. The divestiture of Concessionaire's estate herein by other operation of law;
8. The default by Concessionaire in the performance of any agreement required herein, and Concessionaire's failure to commence and diligently continue to correct such default; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if Concessionaire shall have remedied the default prior to receipt of the Airport Director's notice of cancellation;
9. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict Concessionaire, for a period of at least sixty (60) days, from its Airport operation;
10. Concessionaire becomes in arrears in the payment of the whole or any part of the amount(s) agreed upon herein for a period of sixty (60) days after the time such payments become due;
11. Concessionaire willfully falsifies any of its records or figures so as to deprive the County of any of its rights under the terms of this Agreement; or
12. The default by Concessionaire in the performance of any agreement required herein, and Concessionaire's failure to commence and diligently continue to correct such default within

thirty (30) days of written notice, unless a shorter time is specified in this Concession Agreement; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if Concessionaire shall have remedied the default prior to receipt of the Airport Director's notice of cancellation.

13. If the Airport builds a parking garage within the term of this lease, the Airport reserves the right with due notice to lessee to cancel leases at the time the parking garage would open and re-quote the concession space commensurate with facilities available in the new parking structure.

Failure of the Airport Director to declare this Agreement terminated upon the default of Concessionaire for any of the reasons set out above shall not operate to bar or destroy the right of the Airport Director to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement. Further, the acceptance of Fees by the County for any period after a default of any of the terms, covenants or conditions by Concessionaire shall not be deemed a waiver of any right on the part of the Airport Director to cancel this Agreement.

#### ARTICLE XIV

##### CANCELLATION BY CONCESSIONAIRE

Concessionaire may cancel this Agreement at any time that it is not in default in its obligations by giving the Airport Director thirty (30) days written notice to be served as hereinafter provided after the happening of any of the following events materially impairing the conduct of its normal business from the premises:

1. Issuance by a court of competent jurisdiction of an injunction in any way preventing or restraining normal use of the Airport or any substantial part of it and the remaining in force of such injunction for a period of ninety (90) consecutive days;
2. The inability of Concessionaire or its customers to use, for a period of ninety (90) consecutive days, the Airport or any substantial part of it due to enactment or enforcement of any law or regulation, or because of fire, earthquake or similar casualty or Acts of God or the public enemy;
3. The operation of Concessionaire's car rental business at the Airport is affected by shortages of gasoline as identified in Article IV, for a period in excess of six (6) months;
4. The lawful assumption by the United States Government of the operation, control or use of



the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least sixty (60) days; or

5. The continued abatement of minimum annual guarantees due to a decrease in deplaning passengers as identified in Article IV for a period in excess of six (6) months.

Failure of Concessionaire to declare this Concession Agreement terminated upon the default of the County for any of the reasons set out above shall not operate to bar or destroy the right of Concessionaire to cancel this Concession Agreement by reason of any subsequent violation of the terms of this Concession Agreement.

During the course of this agreement, if Concessionaire, through no fault of his/her own, ceases to operate as a car rental company, Concessionaire agrees to pay the County the amount of the annual guaranteed minimum for a period of twelve consecutive months, not to extend beyond 12/31/2014. However, if during the course of the twelve month period, the County is successful in locating a replacement Concessionaire, which agrees to assume the annual guaranteed minimum and the leased space in the terminal building in addition to the reserved parking stalls, the outgoing Concessionaire shall be relieved from paying any remaining guaranteed minimum installment payments.

#### ARTICLE XV SEVERABILITY

In the event that any provisions herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision contained herein, provided that the invalidity of any such provision does not materially prejudice either the County or Concessionaire in their respective rights and obligations contained in the valid provisions of this Agreement.

#### ARTICLE XVI INDEPENDENCE OF CONTRACT

It is further mutually understood and agreed that nothing herein contained is intended or shall be construed as in any way creating or establishing the relationship of co-partners between the parties hereto or as constituting the Concessionaire as the agent or representative or employee of the County for any purpose or in any manner whatsoever.

#### ARTICLE XVII RIGHTS UPON TERMINATION

Upon expiration or sooner termination of this Agreement, Concessionaire's rights herein shall cease, and Concessionaire shall immediately surrender the same.

#### ARTICLE XVIII

##### MISREPRESENTATION AND INVALID PROVISIONS

All terms and condition with respect to this Agreement are expressly contained herein, and both parties agree that no representative or agent of the County or Concessionaire has made any representation or promise with respect to this Agreement not expressly contained herein.

#### ARTICLE XIX

##### SECURITY PLAN

The Airport has implemented an Airport Security Plan in a form acceptable to the Transportation Security Administration pursuant to 49 Code of Federal Regulations 1542. The Lessor reserves the right to modify that plan from time to time as it deems necessary to accomplish compliance with Department of Homeland Security Regulations. Concessionaire shall at all times comply with the Security Plan and indemnify and hold harmless the Airport from any violations of said Security Plan committed by any agent or employee of Concessionaire. Further, Concessionaire agrees to reimburse the Lessor in full for any fines or penalties levied against the Airport for security violations as a result of any negligent actions or omissions on the part of the Airport, its agents, suppliers, or employees occurring at any access point within the exclusive leased area of Concessionaire.

#### ARTICLE XX

##### FEDERAL AVIATION REGULATION 49 CFR PART 139

Concessionaire agrees to comply with Federal Aviation Regulation 49 CFR Part 139 (Certification and Operations: Land Airports Serving Certain Air Carriers) and the Airport's policies as outlined in the Airport's Federal Aviation Administration approved Airport Certification Manual. Concessionaire further agrees that fines levied upon Austin Straubel International Airport through enforcement of Federal Aviation Regulation 49 CFR Part 139 because of acts by Concessionaire's employees, agents, suppliers, guests, or patrons shall be borne by Concessionaire.

#### ARTICLE XXI

##### SUCCESSORS AND ASSIGNS BOUND

All of the provisions of this Concession Agreement shall bind the legal representatives, successors and assigns of the respective parties.

#### ARTICLE XXII

##### HOLDING OVER

In the event that the Concessionaire should hold over and remain in possession of the Premises after the expiration of the term of this Concession Agreement or termination for any other cause, such holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy from month to month which may be terminated at any time by the Airport Director or Concessionaire. During such holdover, The County may collect from Concessionaire double the amount of the monthly minimum guarantee or the amount of rental paid to County immediately prior to the commencing of such holdover, whichever rental is greater.

### ARTICLE XXIII

#### PARAGRAPH HEADINGS

All the paragraph and subparagraph headings of this Concession Agreement are for reference only and shall not be considered to define or limit the scope of any provision.

### ARTICLE XXIV

#### FEES AND NOTICES

All fees due under this Concession Agreement shall be made payable to Austin Straubel International Airport, and shall be remitted to the Airport Director, Austin Straubel Field, 2077 Airport Drive, Suite 18, Green Bay, Wisconsin, 54313.

Notices shall be sufficient if hand delivered or sent by certified mail, postage prepaid, addressed to:

County

Concessionaire

Airport Director  
Austin Straubel Int'l Airport  
2077 Airport Drive, Ste. 18  
Green Bay, WI 54313

or to such other addresses as the parties may designate to each other in writing from time to time.

ARTICLE XXV

CLOSING AND SIGNATURE

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

CONCESSIONAIRE:

\_\_\_\_\_

Signed at Green Bay, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_

ATTEST:

COUNTY OF BROWN:

\_\_\_\_\_

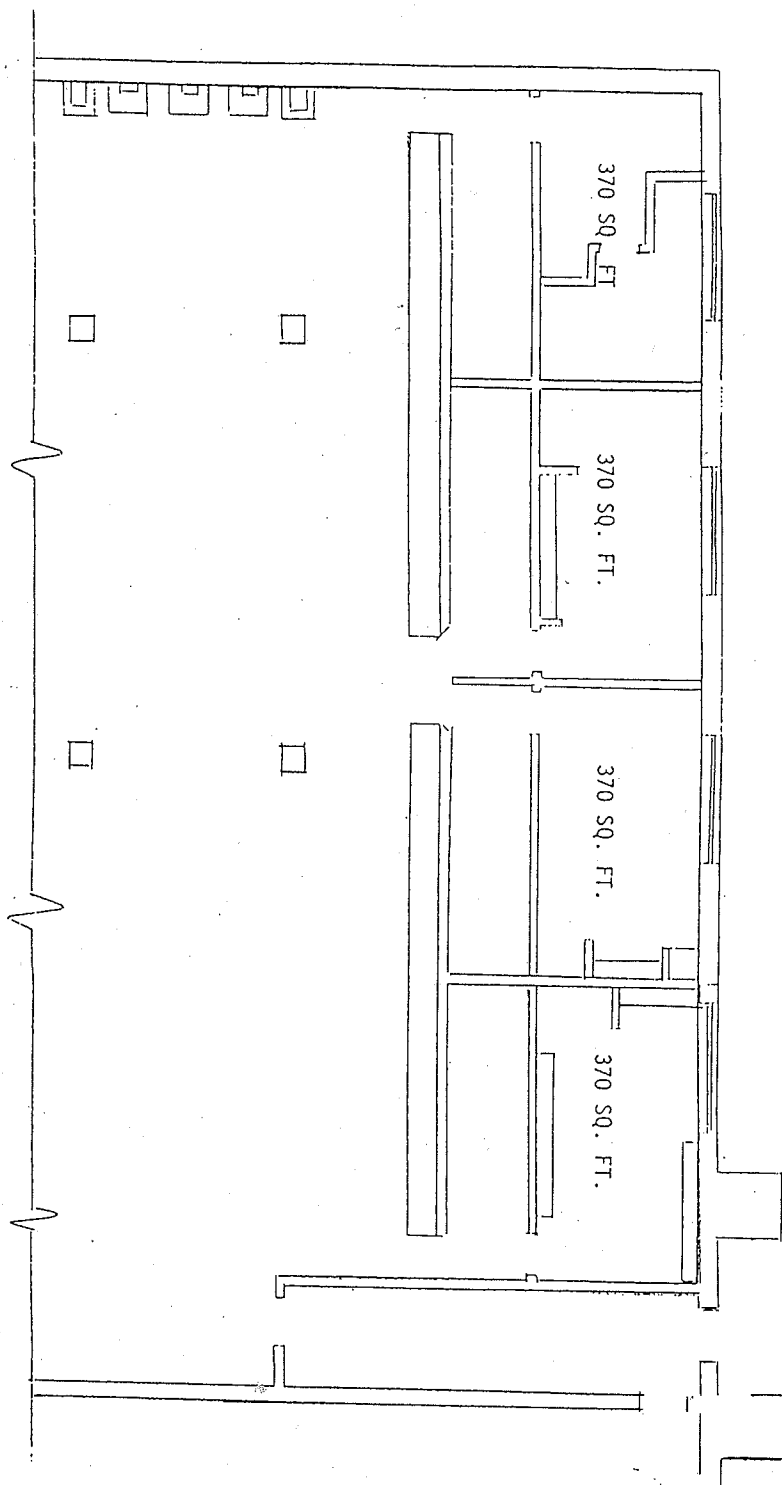
\_\_\_\_\_  
Thomas W. Miller, Airport Director

ARTICLE XXVI

EXHIBITS

- A. Baggage Claim Expansion Service Counter Space Diagram
- B. Ready Lot Parking Stalls
- C. Monthly Reporting Form

EXHIBIT "A"  
RENTAL CAR SERVICE COUNTER AND OFFICE SPACE DIAGRAM

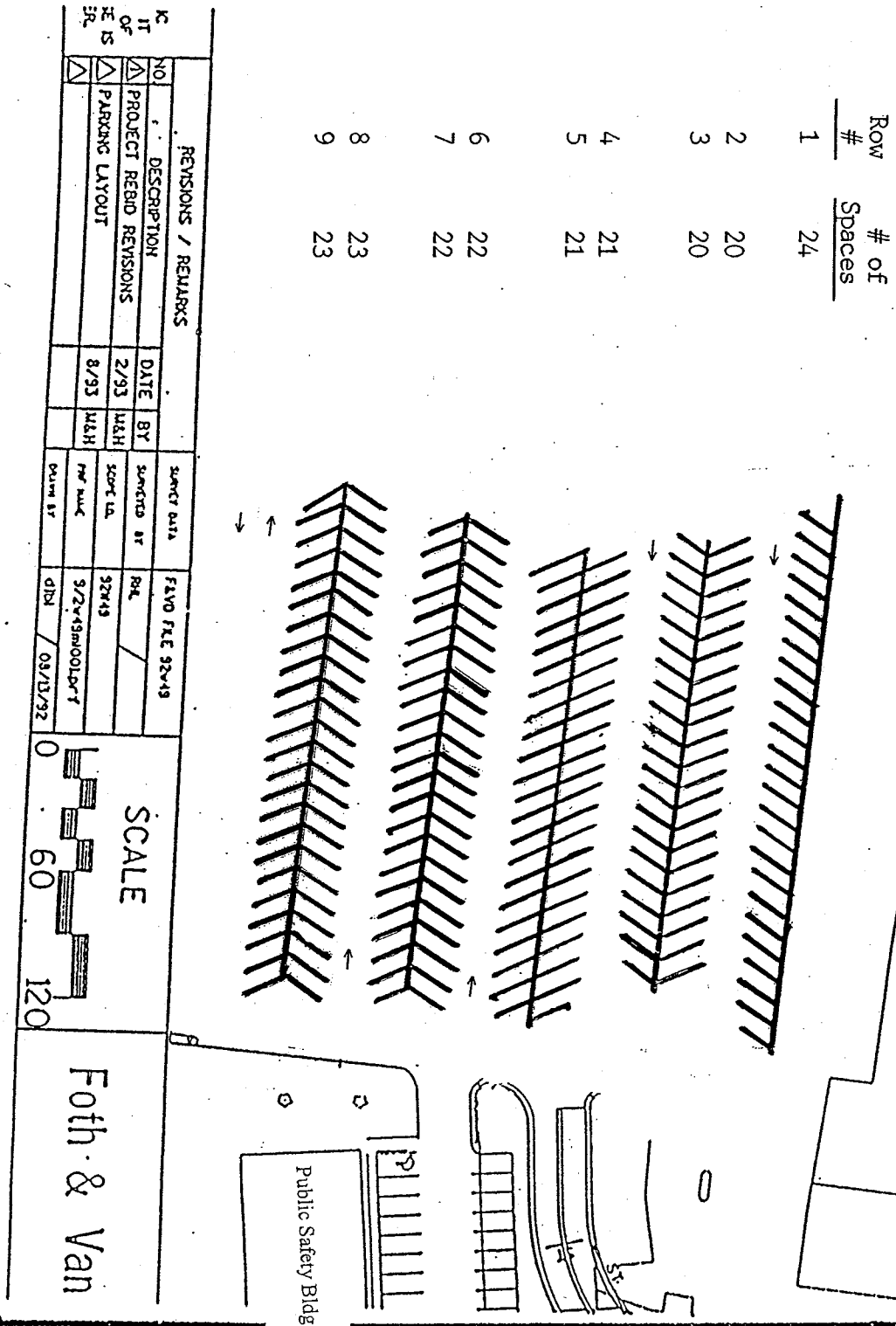


TERMINAL BUILDING  
BAGGAGE CLAIM AREA

1" = 10'  
N

# EXHIBIT B

## Ready Lot Parking Stalls



**AUSTIN STRAUBEL INTERNATIONAL AIRPORT**

**MONTHLY RENTAL CAR REPORTING FORM**

Gross Receipts \_\_\_\_\_ Dollars  
(amount in words)

\$ \_\_\_\_\_  
(amount in numbers)

10% of Gross Receipts \$ \_\_\_\_\_

Total Number of Rental Contracts \_\_\_\_\_

\_\_\_\_\_  
(Name) certifies that the total amount of gross receipts earned during the period from \_\_\_\_\_, 20\_\_\_\_, to \_\_\_\_\_, 20\_\_\_\_, as stated above, are in accordance with the Non-Exclusive Rental Car Concession Agreement entered into on \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ and BROWN COUNTY, and subsequent amendments if any.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

Exhibit C

**"EXHIBIT L"**

**SAMPLE NON-EXCLUSIVE SERVICE AREA AGREEMENT**

**AUSTIN STRAUBEL INTERNATIONAL AIRPORT**

**BETWEEN**

**BROWN COUNTY**

a municipal corporation

**AND**

**SAMPLE LEASE AGREEMENT**

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NON-EXCLUSIVE RENTAL CAR SERVICE AREA AGREEMENT  
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## RENTAL CAR SERVICE AREA AGREEMENT

-CONCESSIONAIRE NAME-

### ARTICLE I

#### GENERAL AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between BROWN COUNTY, a municipal corporation, hereinafter referred to as the "COUNTY", and \_\_\_\_\_, a Rental Car Company, hereinafter referred to as "CONCESSIONAIRE".

#### WITNESSETH

WHEREAS, the County is the owner and operator of Austin Straubel International Airport, an airport situated in Brown County, Wisconsin (the "Airport"); and

WHEREAS, Concessionaire desires to construct and install in and upon the Rental Car Service Area of the Airport, a building or other facilities as it may deem necessary for the maintenance and servicing of its vehicles consistent with Concessionaire's proposed and approved service area development plan; and

WHEREAS, Concessionaire desires to lease from the County an area of land approximately \_\_\_\_\_ square feet in size; and

WHEREAS, the County desires to make the Rental Car Service Area available at the Airport and Concessionaire has entered into and executed a Rental Car Concession Agreement with the County; and

THEREFORE, IT IS MUTUALLY AGREED AND UNDERSTOOD BETWEEN THE COUNTY AND THE CONCESSIONAIRE THE FOLLOWING:

### ARTICLE II

#### PREMISES

For the privilege of operating and managing the Rental Car Service Area for maintenance and servicing of Concessionaire's automobiles and light trucks, the Airport hereby grants to the Concessionaire the use of space shown on Exhibit "A" attached hereto and made a part hereof.

### ARTICLE III

#### TERM OF AGREEMENT

The term of this Service Area Agreement shall be for twenty-five (25) years, commencing on the 1st day of March, 2005 through the 28th day of February, 2030, unless sooner terminated or canceled as herein provided. The Agreement may be renewed or extended for an additional term agreed upon by both parties.

### ARTICLE IV

#### LAND RENTAL

From and after the commencement date, Concessionaire agrees to pay to the Airport the following square foot rate for the year indicated for developed service area space.

1. Rates

2004 - \$0.1441	2010 - \$0.1685	2016 - \$0.2012	2022 - \$0.2402
2005 - \$0.1453	2011 - \$0.1735	2017 - \$0.2072	2023 - \$0.2474
2006 - \$0.1497	2012 - \$0.1788	2018 - \$0.2134	2024 - \$0.2548
2007 - \$0.1542	2013 - \$0.1841	2019 - \$0.2198	2025 - \$0.2625
2008 - \$0.1588	2014 - \$0.1896	2020 - \$0.2264	2026 - \$0.2703
2009 - \$0.1636	2015 - \$0.1953	2021 - \$0.2332	2027 - \$0.2784
			2028 - \$0.2868

Rates for the period extending beyond 2028 shall be negotiated at the appropriate time.

Concessionaire also agrees to pay to the Airport the amounts specified in ARTICLE VII OBLIGATIONS OF CONCESSIONAIRE (16. Snow Removal and Lighting) under the stated terms upon executing that option.

2. Rental Payments - Service Area rental charges are due in advance on or before the fifth (5th) day of each month.

3. Failure to Pay Rent - No demand for rent needs at any time be given, and it shall be the duty of Concessionaire to pay all monies when due. In the event Concessionaire fails to pay any rentals as required under the provisions of this Service Area Agreement after the payments become due as described in this Article, interest at the maximum legal rate allowed by law shall be assessed until fully paid. The implementation of this provision shall not preclude the Airport Director from terminating this Service Area Agreement for default in the payment of rentals as specified in Article X.
4. Proration of Rents - In the event that the commencement or termination of any lease term, with respect to any of the particular premises, facilities, rights, and privileges herein provided, falls on any other date than the first or last day of a calendar month, the applicable rentals, fees, and charges for that month shall be paid pro-rata according to the number of days in that month during which said privileges were enjoyed.
5. Rental Abatement - In the event Concessionaire's Service Area Premises is partially or totally destroyed by fire, earthquake or similar casualty, or acts of God or the public enemy, the rent shall abate in an amount agreed upon by Concessionaire and the Airport Director based upon Concessionaire's ability to operate from any part of the Premises capable of being used for the purposes authorized herein, if any, unless Concessionaire elects not to repair or replace said premises as specified in Article VII, page 78. The Airport Director and Concessionaire shall mutually agree upon a repair schedule based upon reasonable diligence during which time the rent, as determined above, shall abate, understanding that it is the intent of both parties that Concessionaire pay rent during restoration as the area(s) of the service facility become useable.
6. Occupancy of Facility - Concessionaire shall begin paying rental rates as specified in Section 1 of this Article when Concessionaire has "beneficial occupancy" of said facility or any portion thereof. For purposes of this agreement, "beneficial occupancy" shall take place immediately upon the issuance of a Certificate of Occupancy, and Concessionaire takes occupancy of, and commences operations at, the new service facility site.

## ARTICLE V

## RIGHTS AND PRIVILEGES OF CONCESSIONAIRE

Subject to the terms and conditions hereinafter set forth, Concessionaire is hereby given the following rights and privileges during the term of this Service Area Agreement.

1. Facility Use - Concessionaire has the right to service and maintain its rental vehicles at the Airport subject to reasonable and uniform rules and regulations of the Airport as to the use of such facilities. Concessionaire may engage in the sale of rental vehicles from its Service Area premises providing such sale is incidental to its rental car business and the manner of advertising and display of vehicles meets the approval of the Airport Director. There will be no fee for vehicles sold retail, where the vehicle was included in the rental fleet for at least 60 days. There will be a fee of \$100.00 per vehicle sold retail, for vehicles not included in the rental fleet for at least 60 days.
2. Ingress and Egress - Concessionaire, its agents, employees, patrons and suppliers, and other persons doing business with Concessionaire shall have the right of ingress and egress to and from the Service Area Premises over the Airport roadways, subject to regulations governing the use of the Airport.
3. Quiet Enjoyment - The Airport covenants that upon paying the rent and performing the covenants and conditions herein contained, Concessionaire shall peacefully and quietly have, hold and enjoy the Service Area Premises for the term of this Service Area Agreement. Concessionaire agrees that temporary inconveniences, such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements shall not constitute a breach of quiet enjoyment of the Service Area.
4. Service Area Development - On the Premises designated as the Rental Car Service Area, Concessionaire shall, following the execution of the Service Area Agreement, construct and install in and upon the Premises a building or other permanent improvements as it may deem necessary for the maintenance and servicing of its vehicles consistent with Concessionaire's proposed and approved service area development plan. Concessionaire may, on a temporary basis, maintain and service the vehicles of any other car rental operator having a Concession Agreement with the Airport, and no other. The construction of such permanent improvements shall be in accordance with the conditions hereinafter stated.

ARTICLE VI  
RIGHTS AND PRIVILEGES OF COUNTY

The County, in addition to any rights herein retained by it, reserves the following privileges.

1. The Airport Director is hereby designated as the official representative for the enforcement of all provisions in this Service Area Agreement with full power to represent the County in dealings with Concessionaire in connection with the rights and obligations herein provided, actions relating to policy determination, modification of this Agreement, subsequent permissive authorization under this Agreement, termination of this Agreement, and any similar matters affecting the terms of this Service Area Agreement.
2. County reserves the right, but shall not be obligated to Concessionaire, to develop or improve all publicly-owned non-leased facilities of the Airport, as it sees fit, regardless of the desires or views of the Concessionaire, and without interference or hindrance from Concessionaire, together with the right to direct and control all activities of the Concessionaire in this regard.
3. During time of war, national emergency, riot or natural disaster, the County shall have the right to lease the entire Airport or any part thereof to the United States or State of Wisconsin for military or National Guard use and, in such event, the provisions of this Service Area Agreement, insofar as they are inconsistent with the provisions of any lease to any such unit of government, shall be suspended for the period of such government lease.
4. The Airport Director or his designee may enter upon the Leased Premises at reasonable times for any purpose necessary, incidental to, or connected with the exercise of its governmental functions, or for fire protection or security purposes.
5. This Service Area Agreement shall be subordinate to the provisions of any existing or future agreement between the County and the United States Governments, relative to the operation or maintenance of the Airport, the execution of which has been, or may be, required as a

condition precedent to the expenditure of federal funds for the development of the Airport.

6. The County reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport from obstructions, together with the right to prevent Concessionaire from erecting, or permitting to be erected, any building or other structure on the Airport which may constitute a hazard to aircraft. It is the intent of this section that no hazards to air navigation be permitted to exist while at the same time providing Concessionaire with an operational facility.

## ARTICLE VII

### OBLIGATIONS OF CONCESSIONAIRE

1. Condition of Premises - Concessionaire agrees to accept the leased Service Area in its present condition and without expense to the Airport, will repair and maintain any installations thereon and remove or cause to be removed any debris to the extent required for its use thereof. Concessionaire agrees that there will be no trash, garbage, debris, etc., stored on the Premises, and agrees to remove same at Concessionaire's expense. Concessionaire further agrees not to deposit said refuse on any part of the Airport except temporarily in conjunction with collection or removal.
2. Permanent Improvement Buyback - In the event Concessionaire's Rental Car Concession or Rental Car Service Area Agreements are terminated by the County or Concessionaire as specified in the Agreements, Concessionaire at any time fails to be a successful bidder for a Rental Car Concession on the Airport, or Concessionaire voluntarily decides not to re-enter into a Rental Car Concession Agreement, the County shall have the first option to purchase from Concessionaire its permanent improvements on the Service Area at the fair market value as hereinafter defined. In the event the County does not exercise its option in writing within thirty (30) days after the date that 1) it is determined that Concessionaire has not been a successful bidder for the Rental Car Concession, 2) Concessionaire's rental car concession or service area agreement was terminated, or 3) Concessionaire's Rental Car Concession Agreement expired, one of the following shall occur.
  - A. In the case where a current Concessionaire with an on airport agreement was not the successful bidder for a new Rental Car Concession Agreement, the successful

bidders, highest bid to lowest, shall have options to purchase all permanent improvements on the Leased Premises vacated by the non-successful bidder. The highest successful bidder must exercise its option in writing within thirty days after the County decides not to purchase. If the highest successful bidder does not exercise its option within thirty days, the next highest successful bidder, and each successful bidder thereafter in order of bids, highest to lowest, shall have the same option each with a thirty day period in which to execute its option in writing. If no concessionaire exercises its option as specified above, the concessionaire with the highest bid without a previous on-airport Rental Car Concession Agreement must purchase the permanent improvements from the vacating Concessionaire at the fair market value after entering into a Rental Car Concession Agreement with the Airport only if all other on-airport Rental Car Concessionaires have entered into a Rental Car Service Area Agreement with the Airport. The highest successful bidder without a previous on-airport Rental Car Concession Agreement may lease Concessionaire's Service Area and all permanent improvements in lieu of purchase if Concessionaire so desires and the Airport Director gives written consent.

- B. In the cases where the Concessionaire's Rental Car Concession Agreement or Rental Car Service Area Agreement are terminated by Concessionaire or County, or Concessionaire voluntarily decides not to re-enter into a Rental Car Concession Agreement, Concessionaire may market the use of the facility, but understands that any decision as to its use must have the Airport Director's written consent.

The fair market value of the permanent improvements shall be determined as follows:

Each interested party shall be entitled to appoint a competent appraiser of its choice who shall be directed to appraise said permanent improvements for the purpose of determining the then current market value of said improvements with such appraisals to be completed within (60) days of a request for appraisal, and fair market value shall be determined by agreement between the parties. If the parties are unable to agree on the fair market value, it will be determined in accordance



with the then existing provisions of the Wisconsin Arbitration Statutes (Wis. Stat. 788).

During the term of this Rental Car Service Area Agreement, Concessionaire shall submit to the Airport Director an itemized statement of all permanent improvements upon completion of the improvement(s) to be constituted the "permanent improvements". If so requested by the Airport Director, invoices or other records documenting improvement construction shall be provided to the Airport Director.

If the County exercises its option to purchase Concessionaire's permanent improvements, upon payment to Concessionaire by County of the purchase price thereof, based on the fair market value less any amounts then due the Airport by Concessionaire, this Agreement shall terminate and the Airport and Concessionaire shall thereupon be released of all unaccrued obligations herein and all rights of both parties herein shall thereupon terminate and be of no further force or effect. If the County does not exercise its option, upon purchase of Concessionaire's permanent improvements by a succeeding successful concessionaire, Concessionaire shall simultaneously execute and deliver to such purchaser an assignment of this Rental Car Service Area Agreement. Such assignment shall provide for the assumption by the Assignee of all the rights and obligations of Concessionaire herein and shall be executed by the Assignee and the Concessionaire and a fully executed copy thereof shall be delivered to the Airport Director for approval. Upon the completion of such assignment, delivery of a fully executed copy thereof to the Airport, and Airport Director approval of the assignment, all of Concessionaire's rights and unaccrued obligations under the terms of this Agreement shall thereupon terminate.

3. Service Area Plans - Concessionaire shall submit all plans for the service area development to the Airport Director for approval prior to construction. The Airport Director shall have the right to coordinate the construction activities of all Concessionaires on the Service Area site.
4. Maintenance, Exterior Storage, and Housekeeping - Concessionaire shall at its sole expense, keep, maintain, and repair the leased Service Area Premises, any improvements thereto, and all equipment in a presentable and operable condition consistent with good

business practice, and in a manner to preserve and protect the general appearance and value of other premises in the immediate vicinity, including but not limited to: roof, exterior painting, paved areas, fencing, lighting, and grass areas within the lease lines.

In the event Concessionaire does not keep the Service Area Premises in a presentable condition, the Airport Director has the right to issue a written notice to remedy the condition forthwith. Should Concessionaire fail to perform satisfactory within ten (10) days of such notification, or show cause for extension of said time period, the Airport Director shall have the right to perform, or have performed by an outside contractor, the necessary work without liability, and the Concessionaire shall be billed for costs incurred on the basis of rates set and adjusted by the Airport Director.

5. Agency Agreement - It is understood and made a specific condition of this Agreement that the Concessionaire is the holder of a license, franchise, agency agreement or other form of consent from \_\_\_\_\_, and shall do business at the Airport under the trade name and style of that company.
6. Signs and Illumination - Concessionaire will not paint upon, attach, exhibit or display in or about the said Premises any sign without the written consent of the Airport Director first obtained regarding the nature and construction of said sign, provided always that the Concessionaire may erect across the front of the building or leased area an appropriate sign containing the name of the Concessionaire upon approval of the Airport Director, which approval shall not be unreasonably withheld.
7. Underground Storage Tanks - Concessionaire shall comply with all local, State, and Federal requirements regarding underground storage tanks including the Environmental Protection Agency's (EPA) Underground Petroleum Storage Tank (UST) regulations regarding leak detection, piping, spillage, overflow, and record keeping.
8. Disturbance - Concessionaire agrees that it will not disturb the County, or any other tenant of the Airport, including other rental car operators at the Airport, by creating or permitting any disturbance or any unusual noise, vibration, or other undesirable condition on or about the Service Area Premises.
9. Affirmative Action - Lessee, for itself, its heirs, personal representatives, successors in

interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operated on the said property described in this lease, for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations as may be amended.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that: (1) no person on the grounds of race, color, or national origin shall be excluded from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participating in, denied the benefits of or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

10. Civil Rights - Lessee assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Lessee or its transferee for the period during which Federal assistance is extended to the Airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the Lessor or any transferee for the purpose for which Federal assistance is extended, or for any other purpose involving the

provision of similar services or benefits; or (b) the period during which the Lessor or any transferee retains ownership or possession of the property.

11. Discrimination - Lessee, in the conduct of its authorized business activities on said demised premises and on said Airport, shall furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit of sale or service; provided, however, that Lessee shall be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers, or classes of purchasers.
12. Utilities - Concessionaire agrees to provide for its own connections with utilities and to make separate arrangements with the agencies responsible for these utilities. Concessionaire shall pay for all utility service supplied to the said Premises, and if required by the utility agencies as a condition of continuing said services, Concessionaire will install and pay for standard metering devices for the measurement of such services. In the event it shall become necessary to make changes upon the Premises, or within the structures covered by this Service Agreement, such as any wiring, plumbing, or similar installations, as a condition of the continuance of utility services, and Concessionaire desires to continue such services, Concessionaire will promptly make such changes and installations, at its expense, as directed and required by the utility organizations. It is further agreed that the Airport shall have the right, without cost to Concessionaire, to install and maintain in, on or across the demised Premises, sewer, water, gas, electric, and telephone lines. The Airport shall further have the right to install and maintain in the vicinity of demised Premises any electric substations, railroad trackage, street widening, fueling installations, or other installations necessary to the operation of the Airport, or to service other tenants of the Airport; provided, however, that the Airport shall carry out such work and locate any above-ground structures and tracks in a manner so as not to unreasonably interfere with Concessionaire's use of the Premises.
13. Assignment or Sublease - Concessionaire will not assign this Service Agreement, nor underlet the Leased Premises, nor any part thereof, without the written consent of the Airport Director, except that Concessionaire shall specifically be permitted to assign the

Agreement and all of its rights and duties hereunder to a bona fide lending institution. The Airport will cooperate with the Concessionaire and hereby permits the Concessionaire to encumber and grant a security interest in any property or property rights, real or personal, it may have in the Leased Premises or property located thereon. The Airport Director will not unreasonably withhold its consent to the use of the Leased Premises by any person, persons or company obtained by any of Concessionaire's lenders in the event any lender forecloses on any of the above-mentioned property.

14. Indemnification and Hold Harmless - Concessionaire hereby agrees to indemnify and save harmless the County and its elected or appointed officials, agents, boards, commission, employees and representatives, hereinafter referred to as the County, from all suits, including attorneys' fees and costs of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of or in connection with any act or omission of the Concessionaire, its agents and employees, and of any subcontractor, its agents and employees, in any way arising out of or resulting from any activity of Concessionaire on the Airport which results directly or indirectly in the injury to or death of any person or persons, or on account of any act, claim or amount arising or recovered under Workmen's Compensation law, or arising out of the failure of the Concessionaire or those acting under Concessionaire to conform to any statutes, ordinance, regulation, law or court decree. It is the intent of the Concessionaire and the County that the County shall, in all instances, except for loss or damage resulting from the sole negligence of the County be indemnified by the Concessionaire against all liability, losses and damages of any nature whatever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the Concessionaire's activity on the Airport. The parties shall give each other prompt notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect each other, and each party shall have the right to compromise and defend the same to the extent of its own interest. The County shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of the County's selection without relieving the Concessionaire of any obligations hereunder. The Concessionaire's

obligations hereunder shall survive any termination of this Agreement or Concessionaire's activities on the Airport. In addition, Concessionaire shall hold the County harmless against all mechanic's and materialman's liens and/or liens of a like nature, and against all reasonable attorney's fees and other costs arising by reason of any such liens or claims.

15. Insurance - Concessionaire shall maintain insurance in the amounts and under the terms specified in the Rental Car Concession Agreements, or as changed from time to time. In addition, Concessionaire shall require any agent, independent contractor or subcontractor operating on the Premises to provide insurance certificates equal to its own insurance coverage, to the Airport Director. The submittal of insurance certificates shall not relieve or decrease the liability of the Concessionaire for its agents, independent contractors or subcontractors.

If the Service Area Premises or permanent improvements thereon are partially or totally damaged by fire or other casualty, Concessionaire will repair or replace the same at its own expense. However, Concessionaire may elect not to repair or replace the Service Area Premises or permanent improvements. In this event, the Service Area Agreement shall be terminated with the ownership of all permanent improvements vested in the Airport. All insurance proceeds relating to the Premises and permanent improvements, excluding Concessionaire's trade fixtures, shall be divided on a pro-rata basis as determined by a depreciation schedule based on a term of twenty-five years.

16. Snow Removal and Lighting - Concessionaire shall be responsible for installing and maintaining any lighting for its service area, and also for performing snow removal in its leased Service Area. Concessionaire retains the option of having the Airport provide snow removal in Concessionaire's leased Service Area for an hourly rate established within the Airport's annual budget based on wages and equipment used to be adjusted, as necessary, each January 1st of the term of this Agreement. There may be an additional charge for sand/salt application. Concessionaire understands that the Airport will keep track of the hours required for said snow removal and agrees to reimburse the Airport for aforesaid expenses. Snow removal in the leased Service Area shall be accomplished in the priority order specified in the Airport Snow and Ice Control Plan, or as said plan is updated or

modified. The Airport retains the right of refusal to provide snow removal in Concessionaire's leased Area at any time for any reason or no reason at all upon written notification to Concessionaire.

17. Costs of Enforcement - Concessionaire covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and expenses that shall be made and incurred by the County in enforcing covenants and provisions of a material nature of this Service Area Agreement.
18. Laws and Ordinances - Concessionaire shall comply with, at its own cost and expense, all applicable Federal, State, or local laws, ordinances, rules or regulations of the Airport now in effect or hereafter promulgated. Any violation of this paragraph shall be construed as a material breach of this Service Area Agreement authorizing the termination thereof at the election of the Airport Director, unless Concessionaire, upon receipt of written notice, takes immediate remedial measures acceptable to the Airport Director.
19. Sales and Property Taxes - Concessionaire shall pay any leasehold tax, sales tax, personal property tax, transaction tax or other exaction assessed or assessable as the result of its occupancy of the Premises or conduct of business at the Airport under authority of the Service Agreement, including any such tax payable by the County.
20. Environmental Assessment - County certifies that no hazardous materials have been stored on Lessee's Service Area premises. Lessee shall not be responsible for any preexisting environmental contamination found to have existed on the site prior to occupancy. Any preexisting contamination which requires remediation pursuant to federal or state law, shall be completed by County. Upon expiration, or sooner termination of this Rental Car Service Area Agreement, Lessee agrees to turn over to County, or the next successful lessee, said leased premises in the same condition in which they were accepted by Lessee, fixed improvements excepted. Lessee understands and agrees to be responsible for any environmental mitigation, including ongoing measures, required due to Lessee's occupancy on the leased premises.
21. Recycling - The Lessor has implemented a material recycling program in a form acceptable to Wisconsin Administrative Code, NR 544, to reduce the quantity of waste disposed of in

landfills and to conserve valuable natural resources. Lessor reserves the right to modify the plan from time to time as it deems necessary to accomplish its purposes. Lessee shall at all times comply with the recycling program and indemnify and hold harmless the Lessor from any violations of the recycling program committed by any employee or agent of Lessee. Lessee further agrees to reimburse Lessor in full for any fines or penalties levied against Lessor for any and all recycling violations as a result of negligent actions taken on the part of the Lessee, its agents, suppliers or employees occurring at any waste disposal container used exclusively by any Lessee.

#### ARTICLE VIII

##### MAINTENANCE AND OPERATIONS BY CONCESSIONAIRE

1. Concessionaire warrants that it shall use the Premises as a service and maintenance area for its rental car operation at the Airport. Concessionaire shall not use the Premises for any other purpose, other than those previously stated in Article V, Paragraph 1, without the written consent of the Airport Director. The Airport Director may authorize the use of the Premises for any other purpose upon terms and conditions that the Airport Director, in his sole discretion, shall determine. Concessionaire shall use the entire Premises for the conduct of such business in a first-class and businesslike manner continuously during the entire term of this Service Area Agreement.
2. Personnel performing services for Concessionaire herein shall be neat, clean and courteous. All rental car service and maintenance personnel shall be identified by company uniform during their hours of work.

#### ARTICLE IX

##### OBLIGATIONS OF COUNTY

Except as otherwise specifically provided herein, the County, during the term of this Agreement, shall, within its financial ability, operate, maintain, and keep in good repair all appurtenances, facilities, and services now or hereafter connected with Airport. The County shall maintain and operate the Airport in all respects in a manner at least equal to the standards or ratings issued by the Federal Aviation Administration (FAA) for airports of substantially similar size and character.



ARTICLE X  
CANCELLATION BY COUNTY

The Airport Director may cancel this Service Area Agreement upon or after any one of the following events:

1. The filing by Concessionaire of a voluntary petition in bankruptcy;
2. The institution of proceedings in bankruptcy against Concessionaire and the adjudication of Concessionaire as bankrupt pursuant to such proceedings;
3. The taking by a court of jurisdiction of Concessionaire and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act;
4. The filing of any lien against the Premises resulting from any act or omission of Concessionaire which is not discharged or contested in good faith as determined by the County by proper legal proceedings within fifteen (15) business days of receipt of actual notice by Concessionaire, unless Concessionaire posts a bond within this time period for the amount of the lien;
5. The appointment of a receiver of Concessionaire's assets, or any general assignment for the benefit to Concessionaire's creditors;
6. The divestiture of Concessionaire's estate herein by other operation of law;
7. The default by Concessionaire in the performance of any agreement required herein, and Concessionaire's failure to commence and diligently continue to correct such default; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if Concessionaire shall have remedied the default prior to receipt of the Airport Director's notice of cancellation;
8. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict Concessionaire, for a period of at least sixty (60) days, from its Airport operation;
9. Concessionaire becomes in arrears in the payment of the whole or any part of the amount(s)

agreed upon herein for a period of sixty (60) days after the time such payments become due;  
or

10. The nonpayment of any real estate and/or personal property taxes levied by the County against Lessee's property after such taxes become due.

Failure of the Airport Director to declare this Agreement terminated upon the default of Concessionaire for any of the reasons set out above shall not operate to bar or destroy the right of the Airport Director to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement. Further, the acceptance of Fees by the Airport for any period after a default of any of the terms, covenants or conditions by Concessionaire shall not be deemed a waiver of any right on the part of the Airport Director to cancel this Agreement.

## ARTICLE XI

### CANCELLATION BY CONCESSIONAIRE

Concessionaire may cancel this Agreement at any time that it is not in default in its obligations by giving the Airport Director thirty (30) days written notice to be served as hereinafter provided after the happening of any of the following events materially impairing the conduct of its normal business from the Premises:

1. Issuance by a court of competent jurisdiction of an injunction in any way preventing or restraining normal use of the Airport or any substantial part of it and the remaining in force of such injunction for a period of ninety (90) consecutive days;
2. The inability of Concessionaire or its customers to use, for a period of ninety (90) consecutive days, the Airport or any substantial part of it due to enactment or enforcement of any law or regulation, or because of fire, earthquake or similar casualty or Acts of God or the public enemy;
3. The lawful assumption by the United States Government of the operation, control or use of the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least sixty (60) days.

Failure of Concessionaire to declare this Service Area Agreement terminated upon the default of the County for any of the reasons set out above shall not operate to bar or destroy the right of

Concessionaire to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

## ARTICLE XII SEVERABILITY

In the event that any provisions herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision contained herein, provided that the invalidity of any such provision does not materially prejudice either the Airport or Concessionaire in their respective rights and obligations contained in the valid provisions of this Agreement.

## ARTICLE XIII INDEPENDENCE OF CONTRACT

It is further mutually understood and agreed that nothing herein contained is intended or shall be construed as in any way creating or establishing the relationship of co-partners between the parties hereto or as constituting the Concessionaire as the agent or representative or employee of the Airport for any purpose or in any manner whatsoever.

## ARTICLE XIV RIGHTS UPON TERMINATION

1. Rights - Upon expiration or sooner termination of this Agreement, Concessionaire's rights herein shall cease, and Concessionaire shall immediately surrender the same.
2. Permanent Improvements - Upon mutual agreement for the termination of this Service Area Agreement, title to all permanent improvements erected or installed by Concessionaire in or upon the Premises shall be vested in the Airport, excluding, however, Concessionaire's trade fixtures, freestanding equipment not attached to a structure, and personal property.
3. Renegotiation - Upon expiration of the term of this Service Agreement, the Airport Director and Concessionaire shall enter into negotiations for continuance of this Agreement, including but not limited to rates and charges, for a term consistent with the then Rental Car

Concession Agreements.

ARTICLE XV

MISREPRESENTATION AND INVALID PROVISIONS

All terms and conditions with respect to this Agreement are expressly contained herein, and both parties agree that no representative or agent of the Airport or Concessionaire has made any representation or promise with respect to this Agreement not expressly contained herein.

ARTICLE XVI

MOST FAVORED NATIONS

In the event that any contract granted by the County to any other on-airport automobile rental concessionaire contains any provisions more favorable to such concessionaire than the terms herein granted, then, at the option of Concessionaire, this Agreement shall be amended to include such more favorable terms and any offsetting burdens that may be imposed on any such other concessionaire. The intent of this provision is to insure that an existing concessionaire is competing on as equal of terms as possible with any additional concessionaire and, as a result, no other concessionaire shall enjoy any rights, profits or other conditions more favorable to such concessionaire than those enjoyed by the concessionaire as specified herein.

ARTICLE XVII

FEDERAL AVIATION REGULATION 49 CFR PART139

Concessionaire agrees to comply with Federal Aviation Regulation 49 CFR Part 139 (Certification and Operations: Land Airports Serving Certain Air Carriers) and the Airport's policies as outlined in the Airport's Federal Aviation Administration approved Airport Certification Manual. Concessionaire further agrees that fines levied upon Austin Straubel International Airport through enforcement of Federal Aviation Regulation 49 CFR Part 139 because of acts by Concessionaire's employees, agents, suppliers, guests, or patrons shall be borne by Concessionaire.

ARTICLE XVIII  
SECURITY PLAN

The Airport has implemented an Airport Security Plan in a form acceptable to the Transportation Security Administration pursuant to 49 Code of Federal Regulations Part 1542. The Lessor reserves the right to modify that plan from time to time as it deems necessary to accomplish compliance with Department of Homeland Security Regulations. Concessionaire shall at all times comply with the Security Plan and indemnify and hold harmless the Airport from any violations of said Security Plan committed by any agent or employee of Concessionaire. Further, Concessionaire agrees to reimburse the Lessor in full for any fines or penalties levied against the Airport for security violations as a result of any negligent actions or omissions on the part of the Airport, its agents, suppliers, or employees occurring at any access point within the exclusive leased area of Concessionaire. This provision applies only if Concessionaire, its agents, employees, or suppliers require access to the Air Operations Area (AOA).

ARTICLE XIX  
SUCCESSORS AND ASSIGNS BOUND

All of the provisions of this Service Area Agreement shall bind the legal representatives, successors and assigns of the respective parties.

ARTICLE XX  
PARAGRAPH HEADINGS

All the paragraph and subparagraph headings of this Service Area Agreement are for reference only and shall not be considered to define or limit the scope of any provision.

ARTICLE XXI  
CONSENTS

Where the consent or approval of the Airport is required in this Agreement, such consent or approval will not be unreasonably withheld.

## ARTICLE XXII

### RENTALS AND NOTICES

All fees due under this Agreement shall be made payable to Austin Straubel International Airport, and shall be remitted to the Airport Director, Austin Straubel International Airport, 2077 Airport Drive, Ste. 18, Green Bay, Wisconsin, 54313.

Notices shall be sufficient if hand delivered or sent by certified mail, postage prepaid, addressed to:

County

Concessionaire

Airport Director  
Austin Straubel Int'l Airport  
2077 Airport Drive, Ste. 18  
Green Bay, WI 54313

or to such other addresses as the parties may designate to each other in writing from time to time.

ARTICLE XXIII

CLOSING AND SIGNATURE

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

CONCESSIONAIRE:

\_\_\_\_\_

Signed in Green Bay, Wisconsin, this \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_.

ATTEST:

BROWN COUNTY:

\_\_\_\_\_

Thomas W. Miller, Airport Director

ARTICLE XIV

EXHIBITS

A. Service Area Leased Diagram

\*Leased space diagrams will be included in actual leases.